EXAMINATION

OF THE

DECISION OF THE SUPREME COURT OF THE UNITED STATES,

IN THE CASE OF

STRADER, GORMAN AND ARMSTRONG *vs.* CHRISTOPHER GRAHAM,

DELIVERED AT ITS DECEMBER TERM, 1850:

CONCLUDING WITH AN

ADDRESS TO THE FREE COLORED PEOPLE,

ADVISING THEM TO REMOVE TO LIBERIA.

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PREFATORY NOTE.

THE opinions expressed in this pamphlet do not fall in with the views of any party among us. That the *Colonizationists* earnestly desire the free colored class to emigrate to Liberia, is beyond all doubt; and that they will use measures *adequate to that end*, appears to the writer equally undeniable. The Constitution has been violated over and over again, that these people might be more certainly and securely reached. Still there has been no complaint by those who have influence with the Government. It is not to be supposed, then, that they will come to a complete stop, after having done so much to circumscribe, and render of small value, the liberty that the fathers of the Constitution intended to bestow on the colored people, or that they will hesitate to take from their victims gems of inferior value.

That the colored people should look on the Colonizationists as their enemies, and as offering them perfidious, injurious advice, is not to be wondered at. But let them remember, that those whom they regard as *enemies* have power—*effectual* power. The case of the Cherokee Indians, removed *by force* by the military of the country, from their native land, and transplanted to one thought much less desirable, ought not to be forgotten. It is not the *person* offering the advice that is to be considered, but the *advice*. An enemy, without even intending it, may give advice that we may often advantageously pursue.

To some, the first chapter of this essay will appear too long, if not almost unnecessary. But further investigation will dispel this opinion. It will be seen that it contains statements showing the former and present condition of the country, essential to the entireness of the essay.

The second, third and fourth chapters require no elucidation. They speak for themselves.

The fifth and last continues to show the *persecutions*—as the writer deems them—of the free colored class; concluding with an address advising them, as far as they can, to escape from these persecutions—by removing to Liberia. We recommend Liberia, not as *independently* desirable to the colored people, but as the best *retreat* they can find from the oppression of the whites.

Whilst everything like *compulsory* emigration is disclaimed, it is warmly hoped for, that whatever course it is thought best to pursue, may be the result of calm and wise consideration.

It is no disgrace to the colored people, that, as a *class*, they are ignorant. It would be strange, indeed, if they were not; for those whose more especial business it is to attend to matters of education, have omitted the usual means—sometimes, indeed, *preventing* them—in reference to that part of our population. Admitting many very honorable exceptions among them—they ought therefore to be *much* reasoned with. Fully persuaded of this, the writer could not well leave out any of the facts which he has stated, or any of the arguments he has used: everything that is introduced, being introduced, to make very plain to the colored population that they ought to remove to Liberia.

SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1850.

JACOB STRADER, JAMES GORMAN, JOHN ARMSTRONG, PLAINTIFFS IN ERROR, *vs.* CHRISTOPHER GRAHAM. IN ERROR TO THE COURT OF APPEALS FROM THE STATE OF KENTUCKY.

CHAPTER I.

PRELIMINARY REMARKS.

The intent of a document to be taken, and not particular parts of it—The Judges of the Supreme Court disqualified to decide properly between Liberty and Slavery—The United States compared to the Roman Government, after the Conquest of the East—to England, after the Restoration—Consequences, if Slavery be true by the Bible.

WE propose to examine the decision of the case placed at the head of this article, that we may see how far it agrees or disagrees with the generally received principles of liberty current among us; with the Constitution of the United States, the embodiment of those principles, and from which the court derive all their authority, and which, by the highest sanction used among men, they are appointed to support. Our examination will be thought rigid—perhaps too much so—almost animadversion, by some; but how can it be otherwise, if we are honest with ourselves, and faithful to the race of which we are part, when we believe injustice has been done to the weakest and most defenseless portion of them, by the highest power known to us in such cases?

We do not intend confining ourselves to an examination of the case itself, but we shall try to ascertain what has been, and what is now, the condition of the race in this country: so that we may well understand, that, instead of gaining, at least, in the same proportion as *we* have, they, as a whole, have fewer privileges at this juncture, than they had when the constitution was made; that every new movement in their behalf, or in which they were concerned, has resulted in wresting from them their rights—if those can be called *rights* that are only *permissive*—which they had sixty or seventy years ago, and that, in fact, they are, in every way, more and more circumscribed than they formerly were. To this will be added our opinion, if we should consider it of sufficient value, as to what the colored people should do in their present circumstances.

But before proceeding to argue any of the questions connected with this matter, let us try to find out what the makers of the constitution had in view, with regard to the colored people, when they adopted it, and what is the fair interpretation of that instrument—applying to it the same rules that we do to others. This, indeed, is the only true way of gaining a proper understanding of *any* such instrument, That liberty was the main object of the constitution, in relation to the *white* man, we think is beyond all cavil. That it was, also, the main object in relation to the colored people, we are led to conclude is equally undeniable, since there is no limitation with respect to *them*, any more than with respect to the whites. Any interpretation, then, that counteracts

this must be wrong—and wrong in proportion as it counteracts it. We would not do injustice to our Revolutionary fathers—an injustice which we are certain they do not deserve—by supposing that while they themselves were struggling for liberty, and in the struggle, doing all they *could* do with their own might, and as if not satisfied with this, drawing assistance from every quarter, (not forgetting even the free colored people), that, if they should be blessed in their attempt, they intended to adopt a constitution, or plan, which would enable their descendants, not only always to maintain slavery, but to make the condition of those who might, in any manner, get away from that sad lot, less and less desirable.* *Before* our separation from England, we enjoyed the liberty for which we contended. Finding ourselves without a form of government capable of securing it, we adopted the Constitution. *One* of our chief aims, if not the *chief* one, being to make *permanent* the liberty we had achieved and possessed.

Judging from the best and most authentic history of the Convention of 1787, it was well known then, that liberty and slavery could not permanently co-exist—that if liberty got the upper hand, slavery, its everlasting antagonist, in some form or other, must, in the same proportion, go down, and *vice versa*. Being incongruous elements, they cannot dwell peaceably together—for incongruous they ever have been, and ever must be, as sin and holiness; one *must*, in time, put the other down. But the ingenuity, or, rather, the lubricity of the human mind is very great; men, without much difficulty, are persuaded to think of themselves as belonging to a *clique* or section of society, rather than to the race, and prone to interpret or construe matters pertaining to that section according to the prepossessions, prejudices, or passions which prevail among those who are looked on as composing it.

We do not intend to say, that the judges who gave the opinion at the head of this paper, or those of our fellow-citizens who approve it, or even the "Friends of the Union"—as for distinction sake they call themselves—are dishonest and insincere. We do not think they are, with but few exceptions; these exceptions are to be found generally among the most intelligent and best informed of the class. But the opinions they hold—and we intend to include the judges and those who think with them—disqualify them, almost unconsciously, too, from judging correctly, where liberty and slavery are the litigants. There are many in the world who think, that, if *they* are safe and well provided for, every body else must be so too. So it is, no doubt, with most of those whose *main* object appears to be, to *save the Union*. If the Union, *as it is*, is beneficial to their various pursuits, it is to such persons, very naturally the highest interest of the government. They consider but as subordinate to the Union—as of less importance—the liberty it was intended to secure; or if that liberty consist with the Union, so much the better, but it must not interfere with their main design—one to which their various callings point—the preservation of it.

Here they judge by the law that usually prevails in the section of society with which they are connected—by the lower law of selfishness; their opponents by the "higher law" of their nature, or by the law which tells us to "do unto others as we would have others do unto us." They despise the slaves and blacks, because they see them below their *own* condition, and the condition of the class with which they mostly company. Their interest in them as human beings—as part of the race to which they themselves belong—seldom shows itself. They think the slaves are made and qualified only for the station they occupy, and that the best thing *they* can do in the premises, is to keep them in that station. They think, too, that the condition of slavery serves to sustain their own condition of liberty, and this latter they wish to see maintained at all hazards. They hear with much interest the cries and complaints of the slaveholder about relaxing his grasp or weakening his power over his victim, but are deaf to the cries and complaints of the sufferer. If slavery should be

* Mr. Madison, in a letter to Joseph Jones, dated November 28, 1780, says, "Would it not be as well to liberate and make soldiers at once of the blacks themselves, as to make them instruments for enlisting white soldiers? It would certainly be more consonant to the principles of liberty, which ought never to be lost sight of in a contest for liberty; and with white officers and a majority of white soldiers, no imaginable danger would be feared from themselves, as there would certainly be none from the effect of the example on those who should remain in bondage; experience having shown that a freedman immediately loses all attachment and sympathy with his former fellow-slaves." [1 Vol. Madison Papers, 69.]

abolished, the slaveholder would be reduced below *them*, and below the *caste* in which he had moved. In fine, they do not take the time and trouble to think much about the evils of slavery, but only about the distress of the slaveholder. Such persons embrace liberty as a *feeling* applying to them, and to those with whom they are, in some way, connected—not as a *principle*, which they wish the whole world to enjoy. As mind and heart, in their most comprehensive sense, are the greatest powers, and the most esteemed gifts that men have, the friend of liberty wishes them to be free from all embarrassment, well knowing that this mental freedom contributes much to the happiness of the race. Under the interpretation of the *sectional* philanthropist—and we will call by that name him whose regards are almost all confined to the exaltation of the class to which *he* belongs—the *race* would improve slowly, if at all. Should there be *any* improvement, it would, in all likelihood, be confined to this class, as it is in England and the governments of the old world generally: but the deterioration of the other parts of the human family, on whom this *clique* would look down with contempt, would probably outweigh it. The position with which we set out is well illustrated by the different religious persuasions throughout Christendom. The *main* object of the Bible, on which they all profess their sects are founded—especially of the New Testament—is to persuade men to feel kindly, and to act justly to one another—indeed, to be brethren. But, if this be lost sight of, and resort be had to interpretation or construction of particular passages, on which a religious persuasion or sect is to be founded, what different and contrary notions we have! How is God represented as the friend of a *part* of his family here on earth—*all* of whom he has brought into being—and the enemy of another. The Pope will justify the Roman Catholic religion, its mummeries, convents, monasteries, &c., &c., by the Bible, while he calls heretics, all who are not in his church, and consigns to everlasting destruction largely more than half of his fellow-creatures. By the same book, the Protestant will justify *his* religion in its various forms. Now we would as soon expect from the sincere, and of course, zealous Catholic, an intelligent and well-founded opinion on a strictly Protestant question, relating to the advancement of Protestantism, and *vice versa*, from a sincere Protestant, the same kind of answer to a purely Catholic question, relating to *its* advancement, as we would a correct opinion relating to liberty from the court, or from any of the persons above mentioned, as affiliated with it in sentiment. But with the guide before given—the *main object* of the Bible, and with the love of mankind stronger than the love of sect or party—the task is an easy one. We have before said, that any interpretation opposed to this *must* be wrong. We have now only to add, that it must ever heretofore have been wrong, that it must ever hereafter be wrong; for justice must always be substantially the same, though the subjects to which it is applied may be very different.

Prescott, in his conquest of Mexico, tells us that Cortes and his followers found the *cross* in that country. A Roman Catholic—for with that church the pictures or representations of the cross and other religious objects are more especially emblematic than with others—a rigid one, having more zeal than knowledge, would say it was intended to show that the Catholic religion is true, and that it would easily and soon supercede the Mexican heathenism. 'Tis true, that symbol might have been accidental, and this would have been more probable, had it been the only one found. But the historian accounts not only for this, but for others of a similar kind, in a more philosophic and satisfactory manner, when he says, that nations or communities, in the same progress of development are very likely to have similar usages and symbols.

But are there no developments of national character to which ours, in times past, as well as now, may be likened? We know *two*, that seem to us very striking—Rome. before and after the subjugation of the East, and the English government from the Restoration in 1660, for nearly thirty years, till the accession of William of Orange. Perhaps, the exclamation will at once be made, impossible! we possess more knowledge than ancient Rome ever possessed, and much more than England did, during the time spoken of. Believing both positions, and that society is getting better, and this in proportion as it embraces principles that are more interesting and nearer the truth, we will not deny them. We well know, too, that a mere pigmy, in comparison with Newton, can have a larger

view from Newton's shoulders, than Newton himself had. But we may well be compared in national developments with communities inferior to us—especially, in a knowledge of *duty;* and if the parallel be good, it makes the comparison so much the worse for us.

Rome, for a long time after she was founded, was simple in her manners and desires—particularly, if we compare her with the renown she obtained in after times. To be sure, even from the first, she was quarrelsome with her neighbors, and warlike in her temper; nor did her aggressions cease till their territory was added to her's, and made a part of the nation. But in being addicted to war, she is not peculiarly noticeable. War was the vice and fashion of the times, and every people that could, carried on wars against those who happened to be near by. But this in time would disappear. Good sense, or justice would, at last, put an end to this game of passionate or ambitious men. 'Tis true, the *ancient* Romans lived on the simplest fare. Their chief magistrates and most illustrious generals, when out of office, cultivated their land with their own hands; sat down at the same board and partook of the food with their slaves—as Curtius, the Censor. They sometimes prepared the dinner themselves—as Cato did; or had their wives to carry it to them in the field. But slavery—injustice—was there. It had thus early been incorporated in the very frame-work, in the constitution of her society. Every day—every night—all the time—they did to others what they would not have others do to them. They became accustomed to violate justice—of course, careless of observing it among themselves, where their equals were concerned. Might became Right, and Rome and all the other ancient nations in the same predicament, are now the monuments of the certain defeat of those who habitually violate a law of nature—of that God who made nature.

We are not about to say, that Rome would not have been destroyed, had Sylla and Pompey never poured into her the immense wealth of the East, or had her other generals never conquered that country. There is hardly a doubt that her original injustice would have brought about her downfall, but the conquest of the East only *hastened* that event. Whilst luxury and vice were gaining possession of the land, the leading Romans spoke of their early ancestors as great and good men for their time, but as rather primitive and old-fashioned for things as they *then* were—that the "march of mind" was not so rapid with their fathers as it was with *them*, but they applauded their deeds, at least, as far as suited their purposes—as far as to make them godfathers to their own guilty objects. In all this time—even in the worst of it—Rome was not deficient in what we called "great men"—in sophists that artfully misled, in poets that flatteringly applauded, and in orators and politicians that were guided by the "lower" law, denying that there was any "higher!" Indeed, at no time, had she been deficient in them. She had, from her very origin, been so much agitated and so active, that the animal and intellectual powers of men were greatly excited, and to such she generally confided the direction of her national affairs. What she most needed were greatness and goodness combined—great men, and at the same time, good men—not great and wicked like the Devil, but great and good like God.

How much in substance, in principle, does this resemble our own history! Whilst we were weak—contending for national independence—striving to arouse all the energies of our own country to meet the crisis, and rather uncertain how that crisis would end—and wishing to obtain the good will of the just and virtuous everywhere, we announced in our DECLARATION some important truths—in governments before unheard of. If we had not announced them *then*, we, probably, would not, afterwards, when the danger of re-subjugation had passed away, by the acknowledgment of our Independence. We would certainly not announce them *now*, in the absolute and unqualified sense, in which, at that time, they were understood. The fathers of the Revolution were ignorant of what would be the expansion of mind at the present day; or, that its ingenuity must be called in to explain these principles and reconcile them with our practice.

What we have just now said, is not said at random. When all uncertainty was removed, and our character as a separate nation acknowledged—a very short time afterwards, when the present Constitution was made, there was no direct affirmation in it, that all men are created free—entitled to their liberty, &c., but many important things are indirect

and left to be explained, much was made to depend on memory; and that instrument, itself, in a most important feature, was to be interpreted, not by what was in it—by rights that are inalienable and declared by us to be so—but by what is outside of it. It is by no means difficult, too, to see, that in proportion as we acquire strength as a nation, we are the less inclined to be trammeled, as we call it, by truths published to the world in the time of our weakness and distress. We then relied more on justice—now, on power.

To make the resemblance still more complete between the effect produced on Roman manners by the sudden influx of wealth from Asia, and the effect on ours from the same cause, let us take California. We are far from saying, that the gold from California is, at this time, comparable in amount to what the Romans got from the East. As, however, the circulating medium of the world was then pretty much confined to the Roman Empire, the wealth of the East, concentrating at the city of Rome, or distributed from that capital, must have produced a great effect. But it becomes us, not to "despise the day of small things," as some perhaps would call it. There cannot, now, be much less than *two hundred millions of dollars*—about the cost of the Mexican war to *us*—added to the circulating medium of the world. Hardly a vessel sent off from San Francisco to this country, or to Europe, but that carries gold dust and bars, averaging in all likelihood, fully half a million of dollars. This, of course, goes into the general circulation. If the expectations of the Californians are at all realized, their country will greatly affect the world in this way. Already the discerning see, that it has raised the price of real estate in the old, if not in the extreme, parts of the country. Facts seem to sustain theory, and all sound theory is but the generalization of facts—for never was real estate more saleable at good prices than it now is, or money more easily obtained. And how are our public men? Are they stationary? Do they furnish no index to the popular feeling? The answer must be, that they are not stationary—that they do furnish some index to general opinion, and that they are more extravagant with the revenues of the government than they ever were before, and that they deal in more useless projects than they formerly did. Indeed, they seem to think that the money necessary to accomplish these projects is to be used at *their* pleasure and whim. They identify the country with themselves, and not themselves with the country. They possess a greater than common regard for the Union, as if it had been made for them and their subordinates, and for *their* interpretation of the Constitution, because it suits them and their adherents. Well, truly may it be said to them as Jesus said to the Pharisees—"ye compass sea and land to make one proselyte, and when he is made, ye make him ten-fold more the child of hell than yourselves."

We will now consider the other instance, for with many it will serve better to illustrate our present condition than the one just now noticed—we mean England under the reign of Charles II, and James II. Their father, Charles I, had been beheaded in 1649, and the name of a republic had been substituted for the royal government, and the management of it assumed by Oliver Cromwell till his death. Afterward it was conducted by one of his sons, but greatly inferior to the father in governing men. Charles was restored to the throne in 1660, at the age of thirty. Being heir to the throne, as it was then considered—at the head of his party—together with the vagabond life he had led on the continent, during his banishment—had greatly corrupted his naturally very good talents. During the Republic, manners had been too austere and sanctimonious. The leaders in the government were greatly to blame for giving their countenance to this austerity. On the restoration of Charles—in an uncommon degree popular—the very contrary took place. Not only was austerity out of place at court, but even sobriety, in a good measure, was discarded. Open effrontery and ill-concealed vice, were the order of the day. Charles was the Head of the English Church, as established by law—for the Reformation was then considered as pretty well set up in that country. Dissolute himself, he placed, of course, little confidence in saving himself by goodness and justice. He thought, as was too often supposed *then*, and as too many think *now*, that a belief in the mere formula of a church, and, consequently, that a church thus favored, and receiving the last and best evidence of his sincerity, could save him—for Charles died a Roman Catholic—though only strongly

suspected during his life—confessing to a monk, and receiving from him the last rites of that Church.

Charles was succeeded by his brother James. He, as Charles had been, was the Head of the English Church; but he was an avowed Catholic—the great object with him being to make the religion of the Church of Rome, the religion of the State. The probability is, that he would have succeeded, had he prosecuted his design coolly and dispassionately; but instead of doing so, he suffered his passions too much to interfere—impelling him to seek the accomplishment of his object *too* speedily. The power he possessed as the first officer of the kingdom—particularly the power of removing from office and appointing to it—enabled him so to influence the two Houses of Parliament, that they passed such laws as he thought necessary for the promotion of his design. Such was his influence too, over the Courts of law, by the use of the power already mentioned, that they declared these laws constitutional—such as Parliament had a right to pass. If any one of the judges refused entire obedience to James' will, he was displaced, and one appointed in his stead, who would unflinchingly carry out his wishes.* The notorious Jeffreys, raised from a low condition as the reward of his subservience, was his Lord Chancellor. The vulgar violence of his character was manifested by the frequent abuse of the most worthy, and, that he might the more fully meet the expectations of his sovereign, often at the expense of life. But the string was pulled too quickly, and too violently. It snapped, when suddenly the nation broke away as from a spell, from a fascination that seemed almost mesmeric, and dissipating the faction that had enchanted it, it put to death whomever of it they could lay hands on.

The attempt of James, forcibly reminds us of the attempt of the slaveholders, to fix their institution, as they please to call slavery, as an established condition of the government; one that, from being temporary and allowed, is to be considered as constitutional and permanent; as permanent, indeed, as our government was intended to be. Let it not be said that James was insincere and hypocritical. He was not, and he gave the best proof that he was not; for he suffered banishment on account of his religion, and died in its rites. The nation, equally sincere, thought, however honest James might be, that he was trying to palm on them a great lie, and that nothing could make it a truth. They found they could not dwell together in peace, and they cast him out, sincere though he was.

Neither let it be supposed that *all* the slaveholders are insincere and hypocritical. We well remember when the most conscientious and intelligent among them acknowledged that slavery was wrong, when they bemoaned the *necessity* (?) of enslaving their brethreu, and wished to see the time come when all persons would be free. But that time has passed away. We no more hear that wish or that moan. The allies they have made in the north, where the deciders, having no slaves, are supposed to be impartial, have given them distrust of their former opinion; have led them to think slavery is not so bad a thing as they once fanatically supposed it to be; in fine, have put to sleep their aroused consciences. Indeed, influenced by this cause, they have gone so far as to say, that slavery is not only an indispensable element in the *best* organization of society, but that it is a *good* thing. To encourage their associates, as well as to confirm themselves, and keep up the courage of both—for almost all men, if not all, prefer truth to a lie—they resort to the Bible to prove that God sanctions slavery, and that he has determined, at least in this country, that a part of his children shall be held in slavery, as articles of merchandise, by another more favored part. Parasites of some mental or moral malformation, but who pretend to a superior knowledge of the profoundest mysteries, have been found who encouraged the idea. Admitting that their plan succeed, with what a God, the infinitely perfect Creator, do they present us! By our perceptions of justice, perceptions which he has implanted in us, we see that he is unjust, that he himself violates the rule on which it is said, hang all the law and the prophets, a rule given for the direction of man, and which all good men approve, "thou shall do to others as ye would

*How naturally this brings to mind the manner in which Chief Justice Taney came into his present situation. Mr. Duane, thinking that *he*, as Secretary of the Treasnry, had not the power to remove the public moneys from the United States Bank, where the law had placed them, refused to do so. He was at once removed by General Jackson, the President, and Mr. Taney succeeded him. The public moneys were removed. In a short time he was elevated to the place he now occupies.

others should do to you." Every one feels, intuitively, perhaps, that it would be a gross wrong to make *him* a slave. If the rule be a true one, and slavery be right, we are presented with a Father, who has invested the race with noble powers, powers like his own, capable of making man the paragon of animals, of raising him to heaven, or sinking him to hell; with powers that in bondage must lie dormant, unimproved, almost valueless; at the same time, enabling the most cunning and powerful of their brethren to hold others of them in a condition which the sufferers try not to *improve*, but to escape from entirely; a condition, too, that sours the temper of the oppressors towards their uneasy victims, and weakens their confidence in men generally. All these things appear unsuitable to the character of God, the author of order and not of confusion.

With these preliminary remarks and statements designed to show us our true condition and the point we have arrived at, we proceed to consider the decision at the head of this article, and lest we may be supposed to misunderstand and misrepresent it, we give it in full.

CHAPTER II.

Decision of the Supreme Court, with the examination of the first part of it relating more directly to Slavery.

SUPREME COURT OF THE UNITED STATES—NO. 26—DECEMBER TERM, 1850.

Jacob Strader, James Gorman and John Armstrong, plaintiffs in error vs. Christopher Graham. In error to the Court of Appeals for the State of Kentucky.

Mr. Chief Justice Taney delivered the opinion of the Court:—

"This case is brought here by writ of error directed to the Court of Appeals of the State of Kentucky.

The facts of the case so far as they are material to the decision of this court, are briefly as follows:

The defendant in error is a citizen of the State of Kentucky, and three negro men, whom he claimed and held as his slaves, were received on board the Steamboat Pike at Louisville, without his knowledge or consent, and transported to Cincinnati, and from that place escaped to Canada and were lost to him. The proceedings before us were instituted under a statute of Kentucky, in the Louisville Chancery Court against the plaintiffs in error, to recover the value of the slaves who had thus escaped; and in default of payment by them to charge the boat itself with the damages sustained. Strader and Gorman were the owners of the boat, and Armstrong the master.

The plaintiffs in error among other defences, insisted that the negroes claimed as slaves were free; averring that some time before they were taken on board the Steamboat, they had been sent by the permission of the defendant in error, to the State of Ohio, to perform service as slaves; and that in consequence thereof they had acquired their freedom, and were free when received on board the boat.

It appears by the evidence that these men were musicians, and had gone to Ohio on one or more occasions to perform at public entertainments; that they had been taken there for this purpose with the permission of the defendant in error by a man by the name of Williams, under whose care and direction he had, for a time, placed them; that they had always returned to Kentucky as soon as their brief service was over, and for the two years preceding their escape, they had not left the State of Kentucky, and had remained there in the service of the defendant in error as their lawful owner.

The Louisville Chancery Court finaliy decided that the negroes in question were his slaves; and that he was entitled to receive $3,000 for his damages. And if that sum was not paid by a certain day specified in the decree, it directed that the Steamboat should be sold for the purpose of raising it, together with the cost of the suit. This decree was afterterwards affirmed in the Court of Appeals of Kentucky, and the case is brought here by writ of error upon that judgment.

Much of the argument on the part of the plaintiffs in error, has been offered for the purpose of showing, that the judgment of the State Court was erroneous in deciding that those negroes were slaves. And it is insisted that their previous employment in Ohio, has made them free when they returned to Kentucky.

But this question is not before us. Every State has an undoubted right to determine the *status*, or domestic and social condition of the person domiciled within its territory, except in so far as the powers of the State in this respect are restained, or duties and obligations imposed upon them by the Constitution of the United States. There is nothing in the Constitution of the United States, that can in any degree control the law of Kentucky upon this subject. And the condition of the negroes, therefore, as to freedom or slavery, after their return depended altogether upon the laws of that State, and could not be influenced by the laws of Ohio. It was exclusively in the power of Kentucky to determine for itself whether their employment in another State should or should not make them free on their return. The Court of

Appeals have determined that by the laws of the State they continued to be slaves. And their judgment upon this point is, upon this writ of error, conclusive upon this court, and we have no jurisdiction over it.

But it seems to be supposed in the argument that the laws of Ohio, upon this subject, has some peculiar force, by virtue of the ordinance of 1787, for the government of the North Western Territory—Ohio being one of the States carved out of it.

One of the articles of this ordinance provides that "there shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in punishment for crimes whereof the party shall have been duly convicted; but that any person escaping into the same, from whom labor or service is lawfully claimed in any of the original States, such fugitive may be reclaimed and conveyed to the person claiming his or her labor and service as aforesaid." And this article is one of the six which the ordinance declares shall be "a compact between the original States and the people and States in the said Territory, and forever remain unalterable except by common consent."

The argument assumes that the six articles which that ordinance declares to be perpetual are still in force in the States since formed within the territory and admitted into the Union.

If this proposition could be maintained, it would not alter the question, for the regulations of Congress under the old confederation, or the present Constitution, for the government of a particular territory, could have no force beyond it limits. It certainly could not restrict the power of the States within their respective territories; nor in any manner interfere with their laws and institutions, nor give this court any control over them. The ordinance in question, if still in force, could have no more operation than the laws of Ohio in the State of Kentucky, and could not influence the decision upon the rights of the master on the slaves in that States, nor give this court jurisdiction upon that subject.

But it has been settled by judicial decision in this court, that this ordinance is not in force.

The case of Permoli vs. First Municipality 3 How, 589 depended upon the same principles as the case before us. It is true that the question in that case arose in Louisiana. But the Act of Congress, of April 7, 1798, Chapter 28 (4 Statutes at large 549) extended the ordinance of 1787 to the Territory of Mississippi with the exception of the Anti-Slavery clause, and declared that the people of that Territory should be entitled to and enjoy all the rights, privileges and advantages granted to the people of the Territory North-west of the Ohio. And by the Act of March 2, 1805 chapter 23 (2 statute at Large 322) it was enacted that the then Territory of New Orleans should be entitled to and enjoy all the rights, privileges and advantages secured by the ordinance of 1787, and at that time enjoyed by the people of the Mississippi Territory.

In the case above mentioned, Permoli claimed the protection of the clause in one of the six articles, which provides for the freedom of religion, alleging that it had been violated by the First Municipality. And he brought this question before this court on the ground that it had jurisdiction under the ordinance. But the court held that the ordinance ceased to be in force, when Louisana became a State, and dismissed the case for want of jurisdiction. This opinion is indeed confined to the territory in which the case arose. But it is evident that the ordinance cannot be in force in the States formed in the North-western Territory to which it was extended by the present government. For the ordinance and the pledges of the Congress of the old Confederation cannot be more enduring and obligatory than those of the new Government, nor can there be any reason for giving a different interpretation to the same words used in similar instruments, because the one is by the old confederation and the other by the present Government. And when it is decided that this ordinance is not in force in Louisana, it follows that it cannot be in force in Ohio.

But the whole question upon the ordinance of 1787, and the acts of Congress extending it to other territory afterwards acquired, was carefully considered in Pollard vs. Hagan, 3 How, 212. The subject is fully examined in the opinion pronounced in that case, with which we concur; and it is sufficient now to refer to the reasoning and principles by which that judgment is maintained, without entering again upon a full examination of the question. Indeed it is impossible to

look at the six articles, which are supposed in the argument to be still in force, without seeing at once that many of the provisions contained in them are inconsistent with the present constitution. And, if they should be regarded as yet in operation in the States formed within the limits of the North-western territory, it would place them in an inferior condition as compared with the other States, and subject their domestic institutions and municipal regulations to the constant supervision and control of this court. The Constitution was, in the language of the ordinance, "adopted by common consent," and the people of the territories must necessarily be regarded as parties to it, and bound by it, and entitled to its benefits, as well as the people of the then existing States. It became the supreme law throughout the United States. And so far as any obligations of good faith had been previously incurred by the ordinance, they were faithfully carried into execution by the power and authority of the new government.

In fact, when the constitution was adopted, the settlement of the vast territory was hardly begun; and the people who filled it, and formed the new populous States that now cover it, became inhabitants of the territory after the constitution was adopted, and migrated upon the faith, that its protection and benefits would be extended to them, and that they would, in due time, according to its provisions and spirit, be admitted into the Union upon an equal footing with the old States. For the new government secured to them all the public rights of navigation and commerce which the ordinance did, or could provide for; and, moreover, extended to them, when they should become States, much greater power over their municipal regulations and domestic concerns than the confederation had agreed to concede. The six articles, said to be perpetual as a compact, are not made part of the new constitution. They certainly are not superior and paramount to the constitution, and cannot confer power and jurisdiction upon the court. The whole judicial authority of the courts of the United States is derived from the constitution itself, and the laws made under it.

It is undoubtedly true that most of the territorial provisions and principles of these six articles, not inconsistent with the Constitution of the United States, have been the established law within this territory ever since the ordinance was passed; and hence the ordinance is sometimes spoken of as still in force. But these provisions owed their legal validity and force, after the constitution was adopted, and while their territorial government continued, to the act of Congress of August 7, 1789, which adopted and continued the ordinance of 1787 and carried its provisions into execution, with some modifications, which were necessary to adapt its form of government to the new constitution. And in the States since formed in the Territory, these provisions, so far as they have been preserved, owe their validity and authority to the Constitution of the United States, and the constitutionality of the laws of the respective States, and not the authority of the ordinance of the old confederation. As we have already said, it ceased to be in force from the adoption of the constitution, and cannot now be the source of jurisdiction of any description in this court. In every view of the subject, therefore, this court had no jurisdiction over the case, and the writ of error on that ground, must be dismissed."

It is almost unnecessary to say---for they are very apparent---that here, only two matters are disposed of. That both should be maintained as they have been heretofore understood, and, as the social and civil States are built on them, is very important to tne *white* man; but still, the difficulties of a decision, overturning the common belief, are not insupportable by him: but such a decision is disastrous, ruinous, to the *free colored* man. The opinion decides that the third clause of the fourth article of the constitutiou, "No person held to service or labor," &c., does not furnish even the protection it was supposed to furnish. We expect to make it very evident, that an important part of the decision, when taken in connection with the late Fugitive slave act, furnishes *none*. The other part of the decision declares that the ordinance of '87 had no validity any longer than the adoption of the Constitution of the United States, that whatever validity it had, it derived from its being adopted by Congress in 1789; and *then*, only as other laws of Congress, applying alone to the Northwestern Territory or territories, in which, as soon as they became *States*, it ceased to operate.

We think it needless to delay here, to prove that *any* thing is generally or universally received by the country or not, but we cannot mistake when we assert, that in virtue of the clause already referred to (3d clause of 4th art. of the Constitution), any slave brought into a free State, by the authority of his owner, is, to all intents and purposes, *free*. If the argument of counsel, as the court seem to think, was intended to add any thing to the constitutional provision, by urging the previous employment of the negroes in Ohio, it was useless, to say the least of it. They were free whether employed or not. The moment a slave, by the consent of the owner, touches the soil of a State where all are free, that moment he owes allegiance to her laws, and that moment his rights are meant to be protected as the rights of others are. From this opinion we have heard no dissentient one, either among the learned or unlearned. We entertain no doubt, that it was the intention of the Revolutionists of 1776, as well as of the framers of the Constitution,* to make free colored men just what other citizens are, and not to take their complexion, or former condition, at all, into the account. To make what we intend so plain that no person can mistake it—if a colored man were taken by his owner, or by his authority, into a free State, and there should be given to him, or bequeathed to him a sufficient amount of property—admitting that there was a property-qualification—so that, as far as that was concerned, he could vote, he could exercise this right, entirely independently of his color, as others could. Indeed, if we proceed on the supposition, that they intended, that slavery should not last long to mar and defile what they had said and done—a supposition that is not only maintainable by the best records we have of our independence and of the formation of the Constitution, but without it, all that is said in them about the equality of man, the blessings of liberty, &c., &c., is not only idle and unmeaning bluster, but meant to deceive others at a distance—then, we say, they had good reasons, nay imperative ones, too, for doing and saying as they did. They would, of course, wish to diminish the number of slaves. And what could they do more promotive of that purpose, than so to operate on the same class, as to make them desire to be free? And how could they better operate on that class, than to make the condition of the liberated person as desirable as possible? And how could they more successfully accomplish this, than to place them at once among those who voted, and who performed all the duties, and took on them all the responsibilities of citizens? We should thus connect them, not so much with the persecutions as with the interests, of the country; make them its friends rather than its enemies, by throwing them back into a class, in spite of all their efforts to escape from it; a class which, from its ignorance and wrongs are very inflammable. We should certainly not judge of them by their complexion, or by the former condition of their ancestors—characteristics that they cannot help or wash out by any alchemy with which we are acquainted. To do this was to do wisely; and, in this way, our fathers of the Declaration of Independence and of the Constitution did. But it is not so now. We have verified the old adage, that, *"whom the gods intend to destroy they first make mad."* Where we should act most wisely we act most foolishly—for the free colored people, influencing the slaves, have the greatest power to do us harm. As long as we continue to keep the slaves as *slaves*, we ought to lead them, as far as we can, on the road to justice. It takes but little reflection to convince us of this. But our passions are too strong for these checks, and we have given way to them. And it may be always observed that, although the injured party may forgive, the injuring party rarely does—and never, whilst he perseveres in doing the injury.

If a foreigner, other than African, comes to settle among us, and is, in due time, *naturalized*, and takes up his residence, we will suppose, in South Carolina: as soon as he acquires the qualifications that other men possess, to vote, he does so. He is not classed with foreigners who have not been naturalized—for he has left that class—but with those who vote and assume all the duties and responsibilities of the citizen. In this case, we act as we ought to do,

* If they thought so, and embodied their opinion in the Constitution, the work of their hands, then all laws, primary or secondary, of the States, and made to keep the colored man, because he is colored, out of their limits, or so to oppress him, when he comes within them, that he will be compelled to leave them, are manifestly unconstitutional.

and attach him to the country by the strongest ties we can apply. But if a colored citizen, we will suppose, of Massachusetts, who is competent in that State to fill its highest office, if the people choose to put him in it,* emigrates to the south, with a view of settling there, he is, at once, classed with those who do *not* vote—with those who are free colored people, and whom, with the slaves, it may be, he resembles only in his complexion, or in the former condition of himself, or his ancestors.

Any other interpretation of the constitution than the one we contend for, would annul that portion of the instrument which declares, that the "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States:" for we well know,† that a citizen of Massachusetts—by the strictest rule a citizen—when he goes to South Carolina, cannot exercise the same privileges he may in Massachusetts. This is owing solely to what he cannot change, or nobody for him, and which has in it no moral or intellectual quality—his complexion, or his former condition, or the condition of his ancestors.

We are not unaware that a different opinion has been delivered by one (the late Judge Kent) having high reputation as a jurist; but when he says that a colored citizen of Massachusetts who voted in the latter, and who emigrates to North Carolina, would have no right to vote in the latter State, he is, in our judgment, wrong in his construction of the Constitution. That instrument will not bear such a construction, and it would be doing wrong to the makers of it, to suppose that they ever intended, that a citizen, free colored or not, should lose his citizenship by the bare fact of emigrating from one State to another. And, would it not annul that article in the Constitution which requires of all judges, whether State or Federal, to support the Constitution in preference to supporting any State law opposed to it. We must here say, that we do not only not see the force of the reasoning, but, on the other hand, we are well convinced, that the framers of the Constitution and the ratifiers of it, never meant it should be so. The impression it makes on us is very deep, that they expected that the free colored man, who possessed the same qualifications that those did, who voted for *Representatives* in Congress, might, if he should so choose, vote for *them;* and that as the Constitution of the United States was declared to be the supreme law of the land, and therefore superior to any State Constitution, and as every major proposition includes the minor one relating to the same subject, it was not supposed that any State would wish to exclude them. To strengthen this view, we might instance the case of North Carolina herself, where free colored men had a right to vote, and did vote till the amendment of her Constitution in 1835, when they were deprived of it; the very men, perhaps, who may have assisted in electing the persons who made the amendment.

We have before said, if the counsel for the Plaintiffs in error insisted that the employmeut of the negroes in Ohio, under a law of that State, further than what we conceive is the fair meaning of the ordinance, made them free, it was, in our judgment at least, useless. "But this question," the court say, "is not before us." We have read the opinion again and again, to find out whether or not we had made any mistake, and whether there could be any important question except the one we are now examining. But we can find none. Had the Court condescended to give any reasons for its conclusions, we should, in all likelihood, have had no difficulty. But it has not; the opinion consisting only of *dicta* without arguments to rest them on, or to convince any one whether these *dicta* are true or not. For the most part, the opinion is plain and easily understood; but at this point, either we do not fully comprehend it, or the Court attempt to mystify the subject---to muddy the water and escape under the natural effect of their own efforts. But subsequent remarks in the same paragraph convince us that we

* When we deny the competency of the colored man to fill any office, simply on account of his color, do we not, also, deny the sovereignty of the people?

† The writer believes that the interpretation now given to these words of the Constitution is only the *secondary* one. The *primary* one, as he thinks, relates to the "privileges and immunities" one may have on his trial for any offence. For example: suppose A., a citizen of New York, domiciled there, commits an act, charged to be treasonable, in Louisiana, in which State, of course, he is tried. On his trial, he shall have all the "privileges and immunities" that a citizen of Louisiana, domiciled there, would have. The secondary meaning now, one which, perhaps, it will always have, seems to have displaced the other, and doubtless is the most important. But if ever there should arise a necessity for a strict construction of the words, they will be found, it is thought, to have that which we suggest.

labor under no misconception, but that the aim of the court was to make a clear and full impression that a State might do as it pleased with its colored population, and neither they nor the slaves had any right at all, under the Constitution of the United States, available against a State law. In the paragraph referred to, the opinion proceeds to say, that "Every State has an undoubted right to determine the *status* or domestic and social condition of the persons domiciled within its territory, except in so far as the powers of the State are restrained, or duties and obligations imposed upon them by the Constitution of the United States." This doctrine, though entirely groundless, is a very fanciful one, and by *itself* would lead us to distrust ourselves, and fear that we *had* fallen into some misapprehension of the meaning of the court. The Constitution of the United States, stronger, as the court admit, than any *State* constitution, does not attempt, further than, as, we think, it considers some among us as slaves, to define the *status*, or domestic or social condition of any one, but views all others who have been born in the country, or who have been *naturalized* as its citizens. The framers of the Constitution, if we can suppose them unwise enough to make so impossible an attempt, should have known that, although the legislature of a country, allowing it to be plenipotentiary in the premises, might declare one dollar should be called fifty cents, and have their mandate obeyed too, they could not, while the people remained at all free, make it purchase less than one hundred cents would buy. If then a State try to do it, let it not suppose that it can derive any authority from the Federal Constitution. We would sooner suppose there was some misapprehension in us, than that the court intended to set aside so plain and well understood a clause. But what follows must set all at rest on this head. The opinion says, "There is nothing in the Constitution of the United States that can, in any degree, control the law of Kentucky upon this subject. And the condition of the negroes, therefore, as to freedom or slavery, *after their return*, depended altogether upon the law of that State, and could not be influenced by the law of Ohio. It was *exclusively* in the power of Kentucky to determine for itself whether their employment in another State should or should not make them free, *on their return*. The Court of Appeals have determined, that by the law of the State, they continued to be slaves."

Allowing this exposition of the Constitution to be the true one, and that there is really no conflict between it and the law of Kentucky, the consequence mentioned *must* follow. But the federal Constitution, as all persons heretofore believed it to be, declares, substantially, that any slave taken, for example, from Kentucky into Ohio by his owner or by his owner's permission, is free. On this event, there is no qualification or modification of the freedom bestowed, nor is there even a show of such qualification or modification in the Constitution, but the slave becomes free, and was to be free as any other citizen; has the right to go into any State of the Union, unmolested of course, wherever he wishes to go or wherever his business may call him—the Constitution by which he was manumitted protecting him every where. The law of Kentucky declares, that although a slave have gone from that State to Ohio, with the permission of his owner, and have returned, resuming the place and condition of a slave, that his former condition of freedom in Ohio, has no influence to keep him free in Kentucky, that State having, according to the court, an *"undoubted"* right to determine his *status*, or his domestic and social condition, whether he is at that time a visiter or domiciled among them. Freedom is, doubtless, of great value to the slave, or, indeed, to any one, although it may be limited to a certain State or States. But is it seriously and deliberately believed that this restricted freedom was the boon the framers of the Constitution intended to confer on the slave, when the condition on which he was to have it was fully performed? That they intended he should never revisit the scenes of his infancy, sad though they might be to him, lest the freedom he enjoyed might make others deprived of it less contented with their lot, or lest his doing so might be construed by the master, the only judge in the case, into a wish to return to slavery, and have wrested from him the very freedom which he most valued—for which, as things are commonly estimated, he may have paid an extravagant and extortionate price, and which he supposed the Constitution had fully secured to him Can any one charge them—to use an

old adage—with thus "whipping the devil round the stump?"

Except the North Western Territory, there was no Territory belonging to the Union when the Constitution was made. With this exception all the territory was included in the *States*. If then any one State has an "undoubted right to determine the *status*, or domestic and social condition of those domiciled within her territory"—to reduce one part of her population to be the slaves of another part—any other State, the States being politically equal—has a right to do it. Where then, we ask, could the Constitutional provision, if it can at any time, be defeated by a State-law, operate? With this construction, it is a nullity, a mere *brutum fulmen*, a meteor not intended to extricate the unhappy follower, but to allure him into a more desperate situation.

Let us suppose, that Mr. Graham's negroes were put on board of the Pike by him, under the charge of Mr. Williams. While the slaves were in Kentucky, and while the Pike was there, too, we know that Mr. Graham had the power to do so. But when they reached Cincinnati, to which place Mr. Graham knew he was sending them, the matter was entirely changed. The steamboat and all on board were subject to Ohio laws. The authority of Mr. Williams, the representative of their master, ceased. There are no masters, in the Kentucky sense, in Ohio. The negroes were freemen, under the Constitution of the United States, with all the responsibilities of freemen to the laws of Ohio. Their very migration with the consent of the master, into a State where all were free, had suddenly changed them from the unnatural condition of *things* into the natural condition of *men*. But these matters neither Mr. Graham nor his *charge* Mr. Williams, seem to have understood—hard as it is to suppose them ignorant of the Constitutional provision. In a short time, the negroes are summoned to go back to Kentucky. They decline the trip—but giving sufficient reasons to all for their determination—slaveholders and their minions excepted. By the aid of others, who care little for liberty, Mr. Williams gets possession of their persons, and is about taking them to Kentucky, whether or not. A writ of Habeas Corpus is sued out in their behalf, commanding that they should be brought forthwith before a judge. Here they prove even a negative—that they had NOT ESCAPED. but that they were brought to Ohio without any consultation with them, and that Mr. Williams, who received his directions from their master in Kentucky, was told to bring them into Ohio. Under the provision of the Constitution of the United States, already quoted, they are at once discharged. But Mr. Williams, looking on them as always to be slaves and nothing else, does not comprehend how they can so soon be transformed into *men*—does not at all understand the *rationale* of so summary a proceeding. He communicates the result, so sad to him, and apparently so disastrous to his principal, Mr. Graham. Neither does Mr. Graham fully see the reason why he was so quickly deprived of his slaves—particularly as he had taken all necessary precautions as far as he knew, against it. No doubt he thought, once a slave, always a slave. Like the clown to whom fifteen shillings was shown, and he thought it all the money in the world, Mr. Graham may have set down Kentucky as the greatest of all States—that none could differ much from her, and that his slaves must be his slaves every where. In this dilemma he goes to his lawyer to see what can be done. He is told that any State has an undoubted right to determine the *status* or domestic and social condition of persons domiciled within her territory, so that there be no conflict in this respect with the United States; that there is nothing in the Constitution of the latter that can, in any degree, control the law of Kentucky in this matter; that the condition of the negroes, as to freedom or slavery, *after their return* depended altogether on the laws of Kentucky, in whose power it was exclusively to determine whether their employment in another State, and, of course, their being there, should or should not make them free, *on their return;* that the Court of Appeals, the highest *State* Court, had decided that, in such cases, the negroes continued to be slaves, and that the only difficulty in the way, was to get them back into Kentucky. Now, is not there enough here to bewilder *any* common man, if his prejudices and interests are *with* the lawyer? Indeed, there is enough to bewilder almost *any* man if he is seeking information from another to guide him, when that other, too, is set down as knowing more about such matters than the inquirer does—so much more that he

makes a due understanding of them part of his profession.

The great aim now is, in some way, to get the negroes back into Kentucky. But how is this to be done? The lawyer thinks, that the Fugitive Slave Act, just now passed by Congress, can be made well to suit his, and Mr. Graham's purposes. They had been so long accustomed to consider the slaves as entitled to none of the rights of human beings, that were the negroes to be inveigled back by false pretenses, or even by a downright falsehood, it would be deemed a clever trick. With the slaveholders, the negroes are not taken into the account, and as for the Yankees, or sons of Yankees, at Cincinnati, who are trying, they say, not to uphold their own institutions, but to *cteal* their negroes from them, they get only what they deserve!

Now we are not going to say, that Mr Graham is, in any respect, more unjust than slaveholders generally are—for we know nothing about him personally—but we suppose he is as ignorant and uninformed, as we know most of them to be. Nor are we, at all unaware, that the price of a single slave, valued by slaveholders, is, at all times, a great temptation—but especially *now*; nor do we suppose any lawyer need be told, how decisive will be his influence on a mind, such as we have described particularly if his advice is directed to the recovery of property that his client considers somewhat doubtful, or a full equivalent for it. Nor need he be told how lavishly his professional advice is given to one, when the latter and not himself, is to pursue it. The Fugitive Slave Act, as a convenient mode, comes into his mind. It will be quite an easy matter f r Mr. Graham to say—for there is no one to examine *what* he says—without alluding in the remotest manner to the fact of his having formerly sent the slaves to Cincinnati—that he had three slaves who, without his consent, were taken on board the steamboat Pike, then in the limits of Kentucky, in a manner forbidden by the law; that they had thus escaped from him, and that he has reason to believe they are in Cincinnati. He gets these facts—for they are such—all thrown into the form required by the Fugitive Slave law—passes them duly through the Court, and he has all that is necessary to his *ex parte* case, cut and dried, prepared for use, without any one to question him. The negroes, relying on the liberty they had acquired under the Constitution of the General Government, are still in Cincinnati, pursuing their ordinary vocations, without the least suspicion that they can again be reduced to slavery. In this condition Mr. Graham arrests them as his slaves. That he may the more easily accomplish his purpose, he watches his opportunity when no Judge of the United States Court is at hand, and takes them before a *Commissioner*. Here nothing but the *identity* is inquired into. This is fully made out by Mr. Graham's neighbors, who saw the negroes that were arrested working for him a few days before. He proves, too, all that took place about the Pike receiving them on board without his consent—in fine, that, they are his fugitive slaves. To prevent all *molestation* from any one, during the transfer to Kentucky, he takes the certificate.

Now here is a case where a slave may be made a freeman by—as far as we know—the universally received construction of this part of the Constitution, since it was made and ratified, and be reduced to slavery again by the operation of a *State* law. The operation of this provision was partially annulled by the decision in the Prigg case. The quiet and submissive manner in which this was received by the country, emboldened the Court and the other friends of slavery, till, at last, by the late Fugitive Slave Act, and the decision in hand, they have proceeded to annul it completely. This act, notwithstanding its gross violation of the principles of liberty we have no doubt, the Court will declare constitutional; such as was justly due to the South, and such as Congress ought to have passed. If there be a decision of the first Court in the land calculated to sink us in our own respect—in the respect of nations advancing almost with perceptible rapidity, in the march of civilization—to reduce us to the level of Spain and Portugal and Brazil, the basest nations of the civilized world; or of the rude and barbarous tribes of heathen Africa, this is that decision. Let us no longer boast before the world that we are the freest goverument of it, for we not only carry on the slave trade, driving it with our characteristic energy by water and by land, but we suffer the poor and defenseless, who have become free in the manner pointed ont by our fathers, to be again brought into slavery. To the fugitives from the oppression of

other nations who come among us, we almost *give* a share of the public domain, but to the African, that statesman would be looked on as a fanatic who would offer any of it, large as it is. We not only exclude him, though he may have bought his freedom at a high price*—from any gratuitous share of the public domain, and although his ancestors may have died as slaves in the service of ours, but we exclude him by our *power*, not by the *Constitution*, from coming within the limits of many of the States. Fugitives from other lands we welcome—our own fugitives we hunt with dog and gun.

Those of a faith sufficiently unscrupulous to credit any monstrous marvel that may be presented to it may believe with the Court, that the fathers of the Revolution intended to declare—that the fathers of the Constitution intended to insert into that instrument with their own hands, so detestable, so fraudulent a provision. But knowing their characters as we do, and having the register of what they did before us, we cannot believe it. The truth we know is to be preferred to all things—then let not their memories be traduced, but give them the honor to which they are entitled.

But supposing the slaves, when brought back to Kentucky are persuaded to try the effect of the writ of *Habeas Corpus*—for they may have learned that this writ cannot be suspended, unless on two contingencies, neither of which then existed. And they will try the least glimmering of hope when liberty is the prize. Application may be made to a State Judge, or to a Judge of the United States, the mere creature of the Supreme Court, and in either instance, a slaveholder. But it may be met, by his saying, the writ does not apply to one in slavery; that (although uncharged with crime) *they* (the slaves) are in the custody of their masters (who, to be sure, are neither officers themselves nor deputed by officers) and that Attorney-General Crittenden has declared, that the writ has no relation to slaves—that it is not even mentioned in the Fugitive Slave Act—that it *follows* the law—is only the law's servant, &c., &c.

Thus it may be seen that, what with the decision in the Prigg case, aided by the one before us, together with the Fugitive Slave act, and by the legislative act of a State, the free colored people can have no *feeling* of security any where in the Union. On the contrary, that, in a government, made in our low estate, to secure the blessings of liberty; in a government (taking the Declaration of Independence as part of it) that possessed many noble truths—democratic in its character—and proclaiming itself the asylum of the oppressed of all nations, we not only debate in our highest legislature whether slavery may not be the will of God, and therefore right, but we therefore conclude, that it is, and practically demonstrate our conclusions, by enslaving three millions of our fellow-beings—subjecting them to an everlasting bondage of body and mind—while about one-sixth of that number, on whom, or on whose forefathers, the boon of freedom was conferred, and who have dwelt among us for many years, are exposed every day to be delivered up to the slaveholder, to be by him led away into interminable bondage.

*The writer knew a free colored man in a slave State who kept a livery stable. His wife and child were slaves, held by Judge C., who has since been Governor of a State and Senator in Congress. We asked him why he did not buy his wife and child. His reply was, that Judge C. asked so high for them—about thirty or forty per cent. above the selling price—that he was not able to buy them.

NOTE.

It occurred to the writer, after he had prepared the last chapter, that the constitutional provision might have been construed as it was, because the slaves, after having been *once* in Ohio, *voluntarily*—as far as we know—returned to the condition of slavery to Mr. Graham. But as this can make no difference we would reluctantly attribute a decision on this ground to any respectable court, much less to one esteemed very enlightened.

The Conventionists thought—as all sensible men, who have reflected on the subject do—that freedom is the *natural* state of man, and slavery the exception, or an *unnatural* state. Knowing that the ignorance of the slave would render him incompetent to make any moral distinction, however plain to others,—and that the *interest* of the owner might lead him to interpret it too much in his own favor, they made the freedom of the slave depend on his crossing a certain line with the consent of the owner. This act is neither moral nor immoral of itself; indeed, it has no moral quality in it. If the slave cannot judge of *it* as well as the owner can, he can judge of it, at least, as well as he can of

any thing else. After he has once crossed this line as we have said, and therefore acquired his freedom, if he should be again taken into slavery, it demonstrates, in a very prominent manner, the great ignorance of the slave, the superiority of the owner's intelligence, his unwillingness to grant the slave his liberty, and that he has no *principle* to restrain him from kidnapping on the African coast, if the temptation and risk should be as they are here.

The employment or the non-employment of the slaves in Ohio can have nothing to do with the question, and the arguments in the text are as entirely applicable as if the matter had never been thought of.

CHAPTER III.

Ordinance of 7787.

We will now consider the Ordinance and the circumstances under which it was entered into, that every one may plainly see, why we cannot coincide with the court, when they say it expired at the time the present constitution was adopted; that it received all its efficacy from the law of 1789, passed by the first Congress under the present constitution, *adapting* it *formally* to that constitution, that, therefore, it is to be viewed as merely a secondary or derivative law having application only to a Territorial form; and that as Ohio, Indiana, Illinois, Michigan and Wisconsin, parts of the Northwestern Territory, have become States, it has no application to them, and that, not being a part of the Constitution of the United States, it furnishes no rule of decision for the court, having lost whatever validity it once had.*

We may say at least, as much of the Ordinance, as we have said of the provision of the constitution already discussed—never was popular interpretation—and this includes the gifted and intelligent as well as the unlearned—more harmonious as to its continuing validity. As far as we know—till the late decision of the United States courts—we never heard from any one, be he "Greek or Barbarian." that the ordinance was at all doubtful or questionable.

Congress have passed acts, on the application of "districts of the North-Western Territory about to become States, mentioned above, in which they have proceeded on the still binding efficacy of the ordinance; and as it gave to these "districts" of the Territory the right of admission as States into the Union, when they contained a certain population, they have uniformly claimed it. Thus it would appear, that in their Territorial form there was conferred on them a right which they could use in their *transition state*. In all these instances, Congress not only considered the ordinance of unspent efficacy on *them*, but they charge the districts applying to them—for their admission into the Union depended on their compliance—not to violate, in their forthcoming constitution, any of the "articles" in the ordinance. The convention, too, considered themselves as bound by the ordinance, and carefully observed it.

We, by no means, intend to insist that children or descendants must think as their parents and ancestors did: far from it. Nor do we mention this matter but with the view of showing what, at these several times, and ever since, as we think, was the unbroken consent of Congress and the convention about forming constitutions for the States carved out of the Northwestern Territory.

The legislatures of these States, too—although the territorial form had been changed—have considered themselves bound by the ordinance. Nor have the courts thought differently. We do not wish to be understood as saying that the ordinance has never been violated. No doubt it has; but this does not make it less obligatory than the commission of murder makes the law for the punishment of that crime less obligatory. The Supreme Court of Ohio, for instance, does not hesitate to declare the articles of the compact—the ordinance—as not only equal to the constitution, but superior to it, for it says, "The Constitution may be altered by the people of the State, while *these* cannot be altered without the assent of the people of this State and of the United States through their representatives. It is an article of *compact*, and until we assume the principle that the sovereign power of the State is not bound by the compact, this alone must be considered obligatory."* And

*For a convention called together to make a State Constitution, so to form it that the State wil on it be admitted into the Union, and then for a convention to meet and form another, which would have kept it out, is a base juggle that has never yet been tried, and for the honor of the country, it is to be hoped it never will. Should it, however, be tried, it is, also, to be hoped that the fraudulent attempt will be met by Congress in a becoming manner.

*Hogg v. Zanesville Canal and Manufacturing Company, 5 Ohio Rep. 414.

even Justice McLean (residing in Ohio), of the Supreme Court of the United States, referring to the possibility that a majority of the voters of Ohio might so alter the Constitution (of the State) as to admit slavery, observed, "But does not the compact prevent such an alteration without the consent of the original States? If this be not the effect of the compact, its import has been misconceived by the people of the State generally. They have looked upon the provision as a security against the introduction of slavery, *even beyond the provisions of the Constitution.* And this consideration has drawn masses of population into our State, who now repose under all the guaranties which are given on this subject by the Constitution and the Compact."* And Justice Story, in his notice of the Ordinance, in his work on the Constitution, does not intimate any doubt as to the permanent obligation of its articles of compact."†

We should be dealing unjustly with those witnesses not to suppose that they were fully aware that the compact, or ordinance, formed no part of the Constitution—was not inserted into it; but that there were some things not embodied in that instrument, which were at least as obligatory as *it* was. The ordinance was not intended to confer any power on the court, nor to take away any, nor indeed does it. Let us suppose a public debt—for instance, ours to Holland or France or to our own citizens—for money loaned to the confederation to forward the cause of our national independence. The obligation to pay this debt can never be obliterated, but by the extinction of the nation—a thing not looked for among the civilized communities of the present day—or by payment—no matter what change of government may come, or what phasis may be assumed. *It is the debt of the* NATION. Not paying the interest on it—and we were beginning not even to do this under the confederation—is no discharge of the debt. Insolvency may be borne with, till better times, but repudiation, the odious resort of an imperfectly civilized people, is no satisfactory adjustment of the claim—the obligation to pay it remaining as strong as ever. Among nations there is no statute of limitations, as there may be, properly enough, among individuals. The republic of France is liable for any public or national debt that may have been contracted by her most despotic monarchs; and we, ourselves, not many years since, collected from Louis Philippe a debt for wrongs done to our commerce by Bonaparte.

But if payment is the only mode by which communities can be released from the obligation of a debt, where then was the use of engrafting on the present constitution the clause declaring that, all debts contracted by the confederation should be as valid against the United States under the new constitution as the old? It was not indispensable, not absolutely necessary, for this object. Minds conversant with these things will at once, see the force of the foregoing remarks; but in order to take away every ground of cavil—to make very clear what before was not altogether clear to all—out of abundant caution, too, and to commend the constitution to popular acceptance, as far as that matter went, the assumption was formally inserted. Now, many will be inclined to say, that a debt thus contracted and provided for, and unalterable, is more lasting than any constitution (for constitutions take measures for their own change), *can be*, and think with the Supreme Court of Ohio, that although the constitution may be altered by the people, the debt must always remain the same till discharged. In addition to the proofs we have offered, of the manner in which the ordinance was viewed, we add that of Mr. Webster, given at a time, too, when great confidence, especially by the free States, was attached to his construction of the constitution; when he was called in a peculiar manner, its EXPOUNDER, and when not the slightest suspicion was connected with him by any one. In his speech, in 1830, on Mr. Foote's Resolution, respecting the sale of the public lands, &c., he says:

"I doubt whether any single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked and lasting character, than the ordinance of '87. That instrument was drawn by Nathan Dane, then and now a citizen of Massachusetts. It was adopted, and I think I have understood, without the slightest alteration; and certainly it has happened to few men to be the authors of a political measure of more large and

* Spooner *v.* McConnell, 1 McLean, 249.
†The above facts, respecting the courts, are from Senator Chase's Speech in the Van Zandt Case.

enduring consequence. It fixed, *forever*, the character of the population in the vast regions northwest of the Ohio, by excluding from them involuntary servitude. It impressed on the soil itself, an incapacity to bear up other than freemen. It laid the interdict against personal servitude, in original compact, not only deeper than all local laws, but deeper, also, than all local constitution. Under the circumstances then existing, I look upon this original and seasonable provision as a real good attained. We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow." Further on in the same speech, Mr. W. says, "I spoke, sir, of the ordinance of 1789, which prohibited slavery *in all future times*, northwest of the Ohio, as a measure of great wisdom and foresight; and one which had been attended with highly beneficial and permanent consequences. I supposed, that, on this point, no two gentlemen of the Senate could entertain different opinions."

These proofs—and every one must know, they are but a drop of the ocean—would entitle us to all the benefits of "long acquiescence," as that doctrine was pronounced in the Prigg case. But did not we ourselves discard it in our examination of that case,* and did we not say it had no proper application to it—indeed, to no case where there was a *written* constitution, on the same subject? All this is freely admitted, but the two cases are widely different, as we will proceed to show. In the former, a clause was inserted into the constitution, making part of it, which had been interpreted differently in different parts of the country---each part acting on its own interpretation. As usual, the southern interpretation prevailed in Congress, as far as the south cared for it. Here, we say, the Supreme Court ought to have intervened, and said what the constitution *was*—for it required but *one* thing. But in the case before us there is—as far as we are aware—an unbroken chain of proofs from the institution of the government, till the Supreme Court have made the attempt of late to change it. We have Congress after Congress passing laws for the holding of conventions, with a special view to making *constitutions* for parts of the Northwestern Territory, and requiring them—in order to secure their admission into the Union—to conform to the "unalterable" parts of the ordinance; the different conventions recognizing the right of Congress to do so, and conforming in all respects; the local legislatures basing their legislation on this; the highest State courts, their decisions; the people every where recogniizng its validity, with no dissentient practice under it any where; orators of every grade expatiating on it, ascribing the great progress of the States formed under the ordinance to the effects of it, and to its enduring character, and all this without a single unharmonious note: surely, if any case is entitled to all the benefits of "long acquiescence," this seems to be that case. The doctrine is thus laid down by the court in page 87 of the Prigg case: "under such circumstances, if the question, were one of doubtful construction, such long acquiescence in it, such contemporaneous exposition of it, and such extensive and uniform recognition of its validity, would, in our judgment, entitle the question to be considered at rest, unless, indeed, the interpretation of the constitution is to be delivered over to interminable doubt throughout the whole progress of legislation of national operations. Congress, the executive, and the judiciary have upon various occasions acted upon this as a sound and reasonable doctrine. Especially did the court in the case of *Stewart* vs. *Laird*, 1 Cranch, Rep., 299, and *Martin* vs. *Hunter*, 1 Wheaton Rep., 364; and in *Cohen* vs. *The Commonwealth of Virginia*, 6 Wheaton Rep. 264, rely upon contemporaneous expositions of the constitution and long acquiescence in it with great confidence, in the discussions of questions of a highly interesting and important nature."

We would here leave this part of the subject did we not wish to examine some of the reasoning used by this court to sustain this part of their monstrous decision. Permit us then to ask *why*, if a public debt be as inviolable, as well-informed and sound-principled men believe it to be—*why*, we say, shall we not construe the expression which immediately follows, "and engagements entered into"* in the same manner? *Engagement* may be considered the generic word,

* The writer has prepared an examination of the decision in the Prigg case, to which he here refers, but which he has not yet published.

*See 1st clause of 4th article of the constitution.

and *debt* as one of the species. Engagement includes debt, but debt not engagement. Debt being a thing by itself—whose characteristics are well understood by nations—being so much money granted on the one side and so much received on the other, to be repaid at a particular time, or times, with interest—it is usually spoken of by itself; just as in giving a history of lions, for instance, we speak of the *species*, but not a part of the *feline genus* to which they belong. The first meaning that Webster in his Dictionary attaches to engagement, is "making liable for debt,"—the second, "obligation by agreement or contract." Common parlance, too, and the best lexicographers will bear us out in saying, we may make *an engagement* to pay a debt. And if we were inclined to draw over any small auxiliary to this cause, we might well use the words, themselves, "all debts and engagements, &c. Now, here *debt* means the money advanced to the confederacy by foreign nations, and by our own citizens, to secure our independence. *Engagements* might be something else, for we might be in debt to others where money was not at all concerned, as in *services*.

Now it seems to us that a very important question arises here—if ever it could be made one—had the Congress of the confederacy, composed as it was of *entirely* sovereign States, any power to pay the debt necessary to be contracted for our independence—to enter into engagements that seemed to favor that purpose and to be for the good of the country? Whatever might have been said on the question when *introduced* into that Congress, we, by accepting the debts and engagements of the confederacy, have stopped ourselves from making it a question. Whatever *they* were bound to do, we bound ourselves to do.

That there was a perfectly harmonious understanding between the Congress which sat in New York and the Convention which sat at the same time in Philadelphia, and that they were fully aware of each other's proceedings we have no doubt. All the claims of the States to the Northwestern Territory had been relinquished to the confederacy—making it the sole owner, for the use of the league or Union, as it then existed. Proceedings in relation to governing it, were commenced as early as 1784, but were not perfected as they come to us till July, 1787.

We have said, it becomes us to know what the confederacy are bound to do. The great thing it was bound to do, was, to make some arrangements for paying the public debt; but will any one say they are less bound to keep their *engagements*, especially to their own citizens, from whom the means of paying the debt were to come? At this time, the government had *no* territory but the Northwestern, and this, with the exception of some scattered French settlements on the Kaskaskia, and some straggling American pioneers on the Ohio river—could not well be reached, for it was dangerous from the Indian, and almost impracticable from any then known mode of conveyance. Having no authority to abolish slavery in the States they represented, and seeing the evils of it there, these Representatives determined to begin its extinction in the first territorial region that came into their hands. They engaged, whilst the country was almost uninhabited, that there never should be slavery there, as it existed south of Mason and Dixon's line. This was the assurance and the encouragement given to every individual that settled in that country. Judge, then, what injustice would be done to the minority who had removed their all to this Territory—whose consciences were opposed to one human being making a slave of another, and whose reason and experience told them, that, to set up slavery was the worst curse that could be adopted for the improvement and colonization of any country:—judge, we repeat, what injustice would be done to a minority were slavery established by a majority. The government was also pledged, that whenever a *district*—Ohio, we will suppose—of this Territory attained a population of sixty thousand, it should be *entitled* to admission into the confederacy as one of the States of it, provided, that in making its constitution, the ordinance was conformed to. This was the promise—the engagement—of the government, and it contains the correlative promise and undertaking on the part of the inhabitants. Slavery was not only forbidden in future, but to show entire sincerity, the little that was already there—for some had at this time found its way there—was extinguished. No one could truly plead ignorance, for the Congress had taken all necessary means for diffusing the information—and as a matter of fact, it was fully

known. This—leaving out the public debt—was the only engagement of importance entered into.

In taking possession of the country, as we did, after the new constitution went into operation, we assumed to do what the Congress of the Confederacy engaged to do—nothing more nor less. Now, supposing that from any cause, the people had not ratified the former, what would Congress have been bound to do, as far as the Northwestern Territory was concerned? Certainly, they would have been bound to keep their agreements, and there was no *money* in the matter; nothing but *services*—as the lawyer would say, *facio ut facias*. Suppose farther, that in order to enter the Union, as it then was, this district (Ohio) of the Northwestern Territory had formed a constitution in the contemplated manner. In doing this, she had performed *her* engagement, the *reciprocal* one was, then, on the part of Congress. It is performed, and the newly formed State (Ohio) is admitted into the Union. She gains admission only because her constitution conforms to certain principles.* If she abandoned them, the corresponding engagement on the part of the Confederacy, or Congress, would not exist, and she would *not* be admitted. Now, supposing still further, that after her object had been accomplished, she should immediately turn round—for if she can rightfully violate, at all, the principles that secured her admission, she can violate them when she chooses—and make a new constitution entirely subversive of them—What, then, ought Congress to have done? Eject her from the Union—reduce her again to a territorial condition, *if that can be done*—would be the spontaneous exclamation of all just persons. But, supposing still further, we well know that it cannot be done. In this dishonest event, those who are opposed to her remaining in the Union, must submit to the fraud, but we may be assured the objects of the device will adhere to the guilty State—though it be in the Union—as firmly as Repudiation adheres to the State of Mississippi; or, perhaps, as closely as the garment of the Centaur adhered to Hercules—till it was the occasion of his death.

* Senator Chase says, most of the principles established by the ordinance, for all time, as fundamental law, are nothing else than the principles of natural right and justice. There can be no *binding* law—indeed no law—primary or secondary—that opposes these.

CHAPTER IV.

The Ordinance of 1787 *shortly Before and After the Institution of the Present Government.*

We had expected—and we have done all that can be properly done toward it—that we should be able, in the historical part of this examination, to make *more* distinct what we did, with regard to the ordinance under the *confederacy*, and what was done with regard to it under the *government* that superseded the confederacy. But in approaching the boundaries which separate them—for the Congress of the Confederation managed the affairs of the country, till the 4th of March, 1789, when the present government was organized—we find the historic facts a good deal like vines—they paying no respect to the limit that divides the two governments, but running over it, and almost hiding it from the careless observer,—yet by one who will take the pains, it can be discovered, for it is *there*, and it only requires the foliage to be lifted up, in order to see it. This thing, however, is very certain—that when the *old* Congress handed over to the new government *all* the country, the latter undertook to pay *all* the debts it had contracted, and *all* the engagements it had entered into. But the performance of an engagement must, in the view of right-minded persons, be *substantially*, according to the mode in which it was promised to be done, unless the promissor be released from it by the promissee, or unless the terms of it be changed by the consent of both parties. The executive, the legislative, and, indeed, all that had any thing to do in the matter, did to the North western Territory *according* to the ordinance,—looking on that instrument as entirely valid. It is only the Judiciary that has given an opinion at variance with the commonly received one. That there is error in the departments mentioned, or in the Judiciary, there can be no doubt. The best way of resolving it is, to find out what the *Congress of the Confederation* bound itself to do in regard to engagements with the Northwestern Territory; for we suppose no one will pretend that *we* were not bound faithfully to carry out what had been promised by the party whose promise we assumed.

Let us again suppose that the present constitution, having failed to secure the popular ratification, went out entirely, and was of no avail,—that the confederation—at least as far as the Northwestern Territory was concerned—was still in existence; and that one of the "districts"—the eastern one, we will suppose—deeming itself, from population, *entitled* to admission to the Union, wished to form a State constitution preparative thereto: would not her obligation to conform to the ordinance be as complete as it ever was, and the obligation of Congress to admit her be as valid as it was in 1787, when the ordinance was passed? If Congress had the right to pass an ordinance for the government of a Territory, then fully belonging (politically) to the sovereignties represented in that body—and if they were empowered to govern it, as long as it remained a Territory, had they not power to say on what terms it should emerge from a territorial form, to assume a grade that would bring it into the Union of States? Could not Congress in 1787, when they had undisputed possession of the country, then almost a wilderness, as well say, what should be the "fundamental" principles of its government as a Territory, and the "basis" of all "constitutions" which "forever thereafter should be formed in the said Territory; to provide also for the future establishment of State and permanent governments therein, and their admission to a share of the federal councils," as well as they could do it afterward, when application should actually be made for admission? To make the application as strong and binding on both parties as possible, the Congress called it a *compact;* and, as if to put it beyond any moral power to alter it—indeed, to make it unchangeable, irrepealable—this compact is considered as one "between the original State and the people and States in the said Territory, and forever [to] remain unalterable, excep

by common consent."* But it may be said that *any compact* or mutual obligation was needless—indeed, that it could not exist as against the confederacy—the higher power—inasmuch as the confederacy could compel its Territory to adopt any form of government it might choose to impose. If this argument be admitted as a good one, it abrogates all capacity in any government—for instance, the United States—to make any binding contract with her Territory. We shall not stop here to prove the position unsound, and untenable, and tyrannical, if it should be attempted to be enforced—but we view it as no small thing to get the *principles* of any government cheerfully complied with, and to have all the institutions of a country founded on them. As far as the States represented in Congress were concerned, they, to be sure, were not bound as individuals may be bound to one another—for individuals acknowledge a superior power to enforce their obligations, should they fail to perform them—and States don't; but then *they* are bound by the highest obligation that can be imposed—to do what they have pledged themselves before the world to do—especially when the thing to be done is *right*.

But this reasoning, which appears so sound to us, and which, indeed, appears so sound to the whole country—not, in all likelihood, even excepting the court itself—the decision renders thoroughly inapplicable; but it asserts that the ordinance was completely annulled or repealed by the ratification of the present constitution; and that the organization under it, was a full *merger* of the "common consent," without which the articles were to be "forever unalterable."

We must here say, that no part of the decision has, so much as this, given us a distrust of the integrity of the court.†

It appears quite irreconcileable with the intelligence we have attributed to that body. Nor will we say that the court, even in this instance, intended to violate the constitution. Yet we know there are other motives by which persons are sometimes influenced, that equally lead to the same disastrous results. The court seem to think so fervently that no part of this wide country, however well it may suit all others, is the place for the free colored man; and so earnestly to desire his departure from it, that, instead of spreading over him that justice—so honorable to a court anywhere—and which the constitution so amply secures to all *white* freemen, and that kindness and benevolence which the wrongs we have, as a people, done to him, or to his ancestors, should make grateful to us, and which his weakness and helplessness constantly call for—instead of doing this, the court seem ready to do all they can do—even to the breaking of the constitution—to accomplish their purpose of driving the colored people from among us—they seem to care little where.

But we will examine this matter from another point of view. Suppose, again, a *district* of the Northwestern Territory—that part of it which soon became Ohio—wishes to omit, in the constitution she is about to form, the articles of the ordinance—especially the one relating to slavery—how shall she proceed to get the "common consent" to the change? In our judgment, the way is this: the matter ought to be distinctly submitted to the people of the Territory in such manner as would best gain their opinion, one way or the other. We say the consent of the *Territory*, for the whole of it is a party to the compact. There is very good reason for this—strange as it may seem to many—lying right on the surface; for it is a matter of no small importance to the residue of the Territory, whether it shall have adjoining it a free State or a slave State, with all the influence of the latter, too, on the States yet to be formed.* We here say nothing about her having a right virtually to repeal or annul what was only confirmative of the declaration by which we came

*The *wisdom* of fixing, at that time, what those fundamentals should be, is *now*, if it was not *then*, very apparent. It enabled that country, from the *first*, to mould its institutions in conformity with the ordinance—with the expectation of always remaining a free country—without the taint of slavery.

†This distrust is a good deal increased when the court say, the ordinance is "*sometimes*" spoken of as "still in force." We will not say what the court has heard, or what it has not heard; but this we are very certain of, that admitting they heard the ordinance "*sometimes*" spoken of as still in force, what they heard did not, in the slightest manner, affect the sentiment of the public at large.

*The correctness of the contest about California in Congress—whether she should be admitted as a free or slave State—is decisive proof of the importance attached to this matter.

into being as a nation, or about its acts being opposed to natural justice; but we will suppose that these subjects are indifferent, and (with regard to them) that she could do as she pleased. We will now suppose that the popular assent is gained. The next step is the assent of the Legislature of the Territory, if it has but one legislature, or the assent of the legislature of the district, if it has one. If there should be one, two or more legislatures in the Territory, the assent of them *all* should be obtained. This will probably agree with that of the people. If a *State* should desire it, the assent of the Legislature, after getting the assent of the people in the manner just now mentioned, is to be obtained. This completes what is to be done as far as the Territory, or a State, or a district is concerned.

After this, there must be obtained the consent of the "original States," to be procured in some satisfactory manner. It is not *necessary* to be done in Congress—for other States than the "original" ones have nothing whatever to do with it. They are, in no way, parties to the contract—no right to vote on the question was reserved to them, and it is no part of the sovereignty possessed by them, on being admitted into the Union. Although the "*new*" States heretofore have acted on the question conjointly with the original States,* we do not once think, that the latter have any right to transfer or assign to the former, on their admission, the privilege which was confined—as far as words can go toward such an object—to the "*original* States." Nor is it at *this* time, even required that *all* the original States should unite in granting the permission, for only a majority of the members present—and that majority may be made up *entirely* by members from the *new* States—is deemed necessary, just as in the enactment of any other law.

But many will be ready to exclaim—the process you recommend is too difficult; and if not physically impossible, it appears to be morally so. When, however, the object of Congress is considered—the ultimate, but quiet abolition of slavery in all the States—our surprise very much abates. That the process for which we contend is difficult—so much so as to be almost impossible, especially in a moral point of view—is fully admitted. But, up to this time, we had given to the world no proofs, that, as *one* people, we were sincere in announcing the truths contained in the Declaration of Independence. Indeed, the proofs we had furnished from the slave states were entirely contradictory of them. The convention had now the opportunity, in the very first territory which they got into their possession, of giving *some* evidence, at least, of their sincerity, and of the wish of the country to abolish a system which was at war not only with what had been said and done during the strife for national independence, but which they might have thought could not successfully be attacked as a political measure.

This appears to be a sufficient reason for *enacting* the ordinance, but it would not have produced the effect it was calculated, and, in all probability, intended to produce, unless it was made *permanent*. But ought difficulty, of itself, to be an objection with *us?* There is not a State constitution in the land in which the majority-principle is not set aside; and, with nearly all persons these constitutions are popular. Indeed, they are often commended, chiefly on the ground of the difficulty of amending or changing them. The Constitution of the United States, so dear to a vast majority, according to their interpretation of it, as we have lately seen, furnishes no exception. It probably will never be changed again, unless in some matter of mere form and convenience: for the dominant party can so stretch it as to make it cover any measure they may wish to adopt: the opposing one think that some day *they* will come into power, and that the example of their adversaries will be a good precedent for *them*.

But the court say, that the ordinance, thus endued with a lasting character, as far as words could give it, has been repealed by the adoption of the present constitution; and that this adoption was a substantial and sufficient giving of "common consent." That there is great error here, and that it may be made, as

* We do not mean that Congsess is not to decide on admitting a State into the Union, but we mean that the question of slavery in the States formed out of the Northwestern Territory is *first* to be consented to by all the *original* States. Whether slavery shall enter into the consideration of members, or not, will depend altogether on the manner in which it is viewed.

we think, more apparent, let A be considered as the CONFEDERATION, and B, as the Northwestern Territory, and that they have entered into a mutual compact, by which A promises to do certain things, and B will do certain other things. After making the agreement, A clothes himself anew and assumes additional responsibilities to his coadjutors. In assuming them, he is not unmindful of his engagement with B—determines to fulfill it, in his new character, and thinks it amply provided for by a clause in the new constitution. B, as far as we know, is satisfied with it, for he has no representative or delegate in the convention, and his opinion of the matter was unknown: for it is a historic fact of which it may be necessary only to remind our readers, that, at the time of holding the convention, no territory was attached to the country but the Northwestern, and *that*, with the exception mentioned, almost uninhabited; and that a clause exists in the constitution, providing that when a certain number of States ratify it by their subordinate conventions, it shall be adopted: *Territories* out of the question.

Both parties to the contract proceeded in good faith, for they both thought that what they had done had the force of a constitutional provision. But the court say, it has utterly expired, and that it was renewed by the acts of Congress of August 7, 1789, and that, whatever validity it has had was derived from that act.

It is true, that at the very first session of Congress, after the new government was organized, the act alluded to was passed, entitled "An act to provide for the government of the Territory northwest of the Ohio river." But this act has not the most distant reference to a change in the articles declared "forever unalterable by common consent." The reason for passing it—given to us in a "*whereas*"—was to *adopt* the ordinance in formal, and by no means, unalterable part, to the present constitution. Inasmuch as the ordinance had been begun and perfected by the Congress of the Confederation, the appointment of Governor and Secretary was to be made by that body, and there was no provision for any person's performing the duties of Governor, if that officer should die or be. in any way, disqualified. Had this turned out the case, the Territory would have been without a head—a necessary head—of the Government. This omission—for it must have been one—was so supplied by the act, that the Secretary, in the event supposed, should execute *ad interim* the duties of Governor. The other alteration was, that the Governor and Secretary should be appointed by the President of the (now) United States, instead of by the old Congress, and that official communications should be addressed to the latter and not the former.

Now, if, as the Court say, the ordinance became extinct when the present Constitution was ratified by nine States—and New Hampshire, the last of the nine, ratified it in June, 1788—there must unavoidably have been a *hiatus* in the Territorial government from that time, till the 7th of August, when the law was enacted. But, perhaps, some will say, we must allow a reasonable time for the organization of the new government. But this relieves us from only a part of the difficulty—for the organization was completed on the 4th of March, 1789—so that the vacancy must, at all events, extend from *that* time till the 7th of August of the same year. A lapse like this all governments try to avoid. Nor is there in the act itself, the least sign of annulling the ordinance, unless we admit the diminutive cavil—a cavil altogether unworthy of the Court—that may be founded on its *title*. Otherwise, there is not the least proof that the Congress enacting the law, did not think that the ordinance was not, at least, as binding on them as the Constitution. The act gives as a reason for its existence, that it was to "continue" the ordinance. Now, if before this time, there had been a lapse, as we have endeavored to show there was by the Court's construction—would sensible men have used the word *continue* to describe a revivification of an expired law—a renewal of its life? Would they have been entirely silent as to the former repeal or nullification? We think not: and if there had been any lapse—any extinction—there is not the slightest evidence of the fact.

There was no *substantial* change in the ordinance on the change of the government. It was *adapted*, as we are told, to the new form of government: only *formally* changed, as is before said, to enable the present Constitution to lay hold of it, and give it the greater effect. This

adaptation was made by men who lived when the ordinance was first formed; by men who lived at the time of the transfer and change of government, and who knew the import—the understanding, attached to it, what was meant by it, and what was expected would be done concerning it. If any of the "Articles" of the ordinance were thought inconsistent with the present Constitution, here was an apt occasion for saying so. But Congress did not say a word about any discrepancy; they adopted the whole ordinance simply by *referring* to it.

But the decision further asserts, that if the "Articles" could be regarded as yet in operation in the States formed within the limits of the Northwestern Territory, it would place them in an inferior condition as compared with the other States, and subject their domestic institutions and municipal regulations to the constant supervision and control of the Court." We hardly know how to answer an objection of this kind; it is, indeed, so puerile, that we did not expect it from such a source. To dispose of it, however, in as few words as we can:—does not the Court very well know, that to enslave our fellow-creatures is no part of sovereignty; that it is an abuse of power which humanity and the law have utterly banished from a large majority of the most civilized countries; and that the free States, even with this inequality, as the Court seem to consider it, are greatly superior in every good respect to those that have this advantage; that "domestic institutions," "municipal regulations," are terms gotten up at the South, to create a prejudice against those who are opposed to slavery, and that they include *all* the slaves, whether predial or domestic, and that the latter, the house slaves, are very few in number, when compared with those who prepare the cotton, sugar, rice, &c., &c., for exportation? And if we should, at last, come to the low pass that the decision seems to think we would sink to without slaves, what can be a more honorable or appropriate employment for a Court, than to see that no man's liberty is invaded or trampled on by his overreaching neighbor? It appears to be more important, too, than deciding whether one person shall pay another a few hundred dollars or not. What renders the objection more frivolous—if that can well be—is the fact that, although Congress have acted on the idea that the ordinance was yet in force, a case of the kind—cases that the Court suppose would be multitudinous—has never yet occurred to occupy its time.

But if the ordinance expired on the ratification of the present Constitution, there is an inference to which the Court is inevitably shut up. It is one, too, which the slaveholders, loudly and boldly deny, and which the Court will probably reluctantly admit. It is that Congress *legislated* at its first session under the Constitution, on the subject of slavery, forbidding its future existence in a Territory, not only whilst it was dependant on the head-government, but when it was about to make a Constitution, and through *it* to prepare for a higher political condition, and to participate in the public counsels. This matter is deemed so plain, that no argument of ours can make it plainer.*

The Court, as we think, lay rather more than usual stress on the source of their authority—the *Constitution*. It is well known that the judicial power is one of the main divisions of that instrument, and that from it the Court derives all its authority. But the ordinance was not intended to confer any power on the Court, nor to take away any. With these objects it has no more relation than any other public debt or engagement had. The United States stood pledged to pay the debts and to perform the engagements into which she had entered by an obligation, at least, as strong as any judgment of a Court sustained by the government could be.

If the ordinance really expired, as the decision asserts, any consistency or inconsistency of it with the Constitution must be useless and unavailing. But if it has gone out from the incompatibility of *some* of its "Articles" with Constitutional provisions, we would inquire, if that is the case with the Slavery article, now under discussion, and by what authority the Court pronounce the *whole* ordinance extinct, when this incompatibil-

* We are of those who think that Congress have a right to legislate on slavery, as on any other vice—to *suppress* it. Congress have a right to legislate on murder, perjury, &c., but only in *one* way—to put those vices or crimes *down*. So on slavery. No legislation can put murder *up*—or perjury, &c., *up*—neither can slavery be put *up*,

ity does not, in any degree, apply to *some* of the articles.

Any recapitulation of our replies—for as far as argument is concerned, we are now done with the question—may be very short. We may truly say, and it includes the whole recapitulation, that all parts of the country, all its parties, all official men, and men not official, looked on the ordinance as still enduring. The only exception that we know of, are the Judges of the Supreme Court.

CHAPTER V.

Colonization—Address to the Colored People.

MANY of our readers will be ready to ask, if the foregoing remarks are made, only with the view of showing the present situation of the country, and of examining the decision of the Court, so that its incompetency to decide rightly between Liberty and Slavery, may be clearly seen by all. The most intelligent and far-seeing may say, they are not, and that they are only the stepping-stones to some other purpose deemed still more important.

We have been convinced, for a long time, that it was the wish of many of the leading men amongst us, both North and South—but principally at the South where the scheme originated—a wish deemed worthy by them to be unceasingly labored for—that the condition of the free colored people should be rendered so undesirable, that the feelings of humane and conscientious owners would be so quenched or turned back that they would not emancipate; that many of the slaves would not greatly desire to enter that class; that when compared with the other classes of our population, it would appear to decrease, and that it would really *increase* but slowly; and that should the planners succeed in this, they, the free colored people would, in the end, be compelled to emigrate from this country—already beginning to be called "the white man's home, and his exclusively, and that God had so appointed it,"*—and seek some other where they would be at peace, and where, in consequence of their emigration, and of their emigration alone, the usual stimulants of men would be open to them and unrestrained.

That the framers of the Constitution intended the free colored man should be really free, we have before stated, and that they expected slavery would be of short duration—and even South Carolina encouraged the expectation—we have little, if any, doubt. It never entered their minds, that he was to be removed or exiled to a foreign land. When the Constitution was made, more than sixty years ago, cotton cannot be said to have been cultivated as an article of exportation. For the sugar-cane we had no congenial climate—at least none of any consequence. The rice, the indigo—the culture of which was unwholesome, and therefore given over to slaves—was not sufficient to overmaster the spirit of liberty then among us. But the cultivation of cotton commenced on a larger scale, soon after the adoption of the Constitution, and, with very few interruptions, it has risen to its present large amount. Not long afterwards, we purchased Louisiana, and in it acquired a great deal of territory on which sugar could be profitably produced. Since then we have acquired much more—enough, indeed, to employ, for a long time, all the slaves, including their natural increase—in the country. 'Tis true California has excluded slavery, but New Mexico and Utah are undefended from its introduction; and unless things very much change, *they*, when admitted as *States*, will be admitted as *slave* States, or capable of becoming such.* As far back as the time just

*See the letter of Mr. Latrobe of Baltimore. It was published in many of the American newspapers in August last.

*Already do we hear that a proceeding is vigorously prosecuted to divide California, so that the southern part of it may be an independent State—doubtless a *slave* State. In New Mexico and Utah, the newspapers tell us there are now many slaves. It is in vain to say, as Mr. Webster has said, and many others were found to reiterate the sentiment, that the laws of the formation of the earth, and of physical geography, would successfully forbid the introduction of slavery into these Territories, allowing that otherwise they would fully fall under his rule. Especially is this notion contradicted by the evidence furnished by our present slave States. There is, probably, not one of them, in which much territory is not inhabited by *non*-slave-holding whites—the land *they* occupy being thought too poor for slave cultivation. The non-slaveholders, too, constitute the majority—a very large majority—of the people of every State, without a single exception. Notwithstanding this, the Legislatures are made up of slaveholders, or their dependants in some way or other. There are no free schools successfully set on foot and kept up in them for the education and advancement of the children of the poor, but the legislation is invariably of the slaveholding type. Missouri, which has only about one slave to six or seven whites, is as much a slave State—has as much of the *esprit du corps* of slavery as South Carolina, where there is a majority against the whites of more than one hundred thousand. The slaveholders make up the weal-

mentioned—when we had much territory that could be profitably used for the cultivation of cotton, and saw that we could acquire other territory on which the sugar cane could be grown; when the nation, particularly the southern part of it, asserted (and the assertion seemed generally to have been well believed), that the slaveholders and *they* only, knew all about slavery and the questions connected with it, and that the main productions of the South could be properly cultivated by the blacks alone, then slavery began to be looked on as more permanent, and the *temporary* provisions of the Constitution to be interpreted as guaranties that the power of the government should be used to make it as lasting as the government. Some, and they stand high, too, go so far as to say that the Union would not have been formed as we have it, unless these guaranties had been given. Those who take this ground, seem unconscious of the inconsistent and insincere manner, in which they present the framers of the Constitution—many of whom were actors in the Revolutionary war—as striving for liberty themselves, yet fastening on others, many of whom had assisted them in their struggle, the manacles of slavery.

Up to this time may be fairly traced the oppressions of the colored man, and they have grown just in proportion as slavery has been thought to be fixed and ascendant. At this time, they are almost unendurable—quite so, as we think, for any one aiming to be a freeman; and proceeding as we have done for the last fifty years, we bid fair, well to qualify ourselves for enacting such atrocious scenes as the one described by the Abbe Gregoire, in his work entitled "*Sur La Literature des Negres.*" He tells us that on the arrival of the bloodhounds from Cuba in the island of St. Domingo, "On leur livra, par maniere d'essai, le premier negre qui se trouva sous le main." He adds, "La promptitude avec laquelle ils devorerent cette curee rejouit les tigres blancs, a figure humaine." "Those who hold that the negro is a distinct species from ours, and of a different and inferior grade in the scale of organized beings, smile at the good Abbe's simplicity, and observe that it cannot be much more criminal to destroy such creatures when they annoy us, than to extirpate wolves and bears; nor do they strongly reprobate the conduct of some white people in our Australian colony, who are said to have shot occasionally the poor miserable savages of that country as food for their dogs."*

The presence of the free colored people among the slaves always disturbed and angered the slaveholder. He had not the wisdom of Mr. Madison—whose opinion is quoted in a previous note—to attach them to the whites by good treatment and kindness; but giving way to the dominion of his passions, he constantly suspects them, and, in his malignancy, he drives them from him, and almost compels them to make the slaves their associates. The ill treatment of the free colored people was early exhibited, not only by debarring them from privileges which, if allowed, would greatly have contributed to the effect we have supposed, but by making it absolutely impossible for them, by any industry or good conduct, to attain these privileges. The people of the North, thinking that their Southern neighbors knew all about slavery, and the matters connected with it—as harlots are supposed best to understand all the devices of courtezanship—for the most part imitated them. They formed no associations with the free colored people—not even in the way of business—looking on them as a degraded *caste*, that nothing could elevate. As, of course, they did not intermarry with them, they managed to make the belief a general one, that any class with whom the most favored *caste* in society would not intermarry, must *really* be a low and degraded one. It would seem that they had forgotten that the earnest *Christian* does not marry with the avowed infidel—nor with the Mahommedan—

thy class, and have more leisure than the poor to electioneer for office and station. However this may be, they, as a matter of fact, manage "by hook or crook," to get into the Legislatures. Kentucky furnishes in her social condition, no exception to the remark, that a large majority of the population in the slave states are non-slaveholders, and we will hazard the assertion, that there is not a member of her legislature who is not a slaveholder. If there is any good soil in New Mexico or in Utah, on the banks of the streams or elsewhere—especially if there is but a tolerable prospect only of mineral wealth, and slavery be not excluded by *law*, these territories will be managed by slaveholders, and, as we said will, in all probability, be admitted as slave States.

*The whole quotation is from the "Natural History of Man," a work by Dr. Prichard, of Bristol, England—page 7. The part in French may be thus translated: "They gave to them, [the bloodhounds], by way of trial, the first negro who fell into their hands. The promptitude with which they dispatched this game rejoiced the white tigers in human form."

nor that the American does not often intermarry with a native of France, or with one that speaks a language entirely different from his own. Yet so little in these, and similar cases, is it thought intermarrying has to do with *rights*, that they are conceded without difficulty. We can account for this in but one way: that we hate the colored people, bond and free, because we have injured them, and we continue to hate them because we continue to injure them.

Although this hostile feeling among the whites was, for many years, so scattered that it had not come to a head, anywhere, yet, throughout the land, it was of the *same* nature; and it so unceasingly continued to grow that it required vent in some way—for nothing but a pure and exalted principle of justice can quench or overcome our tendency to do as others do. This vent was found in the institution of the Colonization Society.

This society, instituted about the beginning of 1817, was formed chiefly by men who were more conspicuous as politicians, than as members of any benevolent association. It was nothing more than the bringing together, the aggregation and embodiment of propensities, or dispositions, that existed almost every where. It proposed a *compromise*—ending as all compromises about slavery have—by the free States giving up some good, and taking, in place of it, some evil– by which the North and the South were to co-operate in the same plan. The slaveholding South generally—with the exception of those who aided in setting on foot the enterprize—looked on it *suspiciously*, thinking it best that slavery should not be at all discussed. The dislike, often the malignity, which slaveholders feel toward the free colored man, was much—and, as it turned out, *truly* —relied on. And when, in addition to this, it was made very clear, how well the scheme could be made to minister to the support of slavery, the slave States, for the most part, not only willingly, but earnestly and encouragingly, embraced it. But, speaking generally, the remark that the slave States, at *first*, looked on the whole matter suspiciously is true. South Carolina and Georgia—States which, at the holding of the Constitutional Convention, laid the foundation of our present troubles about slavery—have never altered their opinion. In *these* States, then, little has been done in the colonization cause.

The greatest difficulty the Society had to encounter was with the North. Northern men had not yet "sufficiently conquered their prejudices" against human bondage, as to make them concur with alacrity in the plan. Many of them had seen—more of them had known—that their fathers had put an end to slavery —either immediately or prospectively—as the worst condition to which their fellow beings could be brought. From this they learned to detest it. They knew, too, that the free colored people among them were the descendants of the slaves; and it is altogether likely that the Northern men would, if entirely uninfluenced, have acted toward them more kindly and justly than they often have.* But they took their temper toward the colored people from the slaveholding South, where—especially in the *country*†—they were treated with so much contempt and dislike, that it might be said to amount to persecution.‡ Still, the North somewhat shrank from the revolting dose. To make it more palatable for them, it was covered over with the notion that the free people of color were to emigrate to Liberia, *with their own consent*§—hat

*Not long after the organization of the Colonization Society, a meeting to approve it, and perhaps to form an *auxiliary*, was held in Boston, at which Mr. Webster was present. He was nominated as one of the committee to prepare suitable resolutions, &c., &c., but viewing the whole matter as a device of the slaveholders to protract slavery, he would have nothing to do with it.

†This accounts, in some measure, for the great comparative number of free colored people in towns and cities. They there get employment, which few, or none, of the whites wish, and in which, of course, the competition is small.

‡Some may excuse, or even try to justify, the North by the fact that it requires much more magnanimity than is ordinarily seen, to behave benevolently and justly toward those who are neglected, or treated scarcely with common attention, by those who are most bound to show them attention, and who are supposed to know them best. But granting they fully succeed, it would only show that the nation is nothing more than a common one—anything, but the "winnowed seed of a great people."

§If the free colored people were treated *here* with that kindness and justice which the framers of the Constitution intended they should be, and which they thought they had secured to them, and were *voluntarily* to go to Liberia, as other freemen go to new countries, with a view of settling there, we see no moral objection that could fairly be made to the colonizing plan; but to harrass them in this country, to *make* them consent to emigrate, is such consent as might be expected from one that—to use a common saying—"jumps out of the frying pan into the fire," and is altogether unworthy of a generous people. This *expression* of consent—not the consent of the mind —is wrung from the colored people by the most tyrannical abuse of our power.

there they could "*rise*," while *here* they could not (though this latter fact was entirely unexplained), and that by keeping up the discussion of slavery it would, at last, lead to entire emancipation.

By such arguments the favorers of the society recommended it, and by such arguments were the North—with some very honorable exceptions—induced to enter heartily into the plan.* The consequences proved to be disastrous, insamuch as the most discerning saw that this, the land of their nativity, was not to be their continuing country, and that, therefore, all plans of improvement, that looked to permanency, were useless; and in proportion as their good demeanor fitted them for remaining here, the efforts to pursuade them to remove to an equatorial and, to them, an unaccustomed climate—to a country new and uncivilized, one in which man was rude and untaught, would be more untiring. Many that went were, no doubt, a good deal taken with the missionary spirit—with the notion of bringing the rude heathen under the dominion of the cross: but saying nothing here of their entire unfitness for this work—for we think it requires talents and learning of the highest order—reliance for settling a new country speedily, is not to be placed on this spirit. Many of those who remained, like branches of certain forest-trees, when severed from the stem, put out buds for a short time, but having no place among us to take root, they withered and died. Their worst anticipations were verified. Not only was their residence here rendered precarious, but they were vilified by the high vulgar and by the low vulgar; by "mongrel, puppy, whelp and hound of low degree," as long as it was thought they were *determined* on remaining in this country. The† advantage that the colored man would enjoy in Liberia, the disadvantages *here*, were exultingly dwelt on, by those who stood high in society generally, and in the church. We forbear to mention the cases particularly, since they are too well known to make it at all necessary: we shall only give specimens, but each of them may be regarded as a *class*. A person of no mean standing, recommended the support of the Colonization Society, and the formation of an auxiliary, by saying that the free people of color, ought to be removed from the presence of the slave, in order that the latter might not suppose that liberty was *ever* the birthright of the colored man; another, the President of a College in a free State, that the free colored men ought to have the most stringent laws passed against them, to compel them to consent to emigrate; another, also the President of a College and a preacher in a slave State, explained the golden rule, or the rule of "doing to others as we would they should do to us" in this manner,—if the master were a slave with the ignorance and inferiority of the slave, and the slave were the master, with the master's greater knowledge and mental superiority, the latter (the master in this case) *would choose* that the master (here the slave) should choose for him. The real master would, of course, choose for the slave to remain a slave. Another, the Secretary of the principal society, and a minister of the Gospel, contended that the degradation of the free colored man *here*, was an ORDINATION OF PROVIDENCE; consequently, one that ought not to be opposed, and that could not be successfully opposed permanently.

Those who opposed them, and who were the advocates of justice to the colored man *here*, were few in number and weak in influence, when compared with their adversaries. In vain they urged on the Colonizationists, *the principles contained in the Declaration of Independence*, and in the Constitution; in vain they plied them with the laws of humanity, and the duties of Christianity. To arguments of this kind, they were deaf. They appeared determined, in disregard of every thing on the adverse side, to rush to their project. Not only to colored people, were names of great opprobrium applied, but names equally opprobrious were applied to all, who, in any way, favored their cause here. But the latter were like a reed in the storm, presenting no impediment to their course, bending to their pressure, but not uprooted.

But, were not goodmen warmly interested in Colonization? That they were is not at all denied; but it is known that

*This reconciliation between the North and South cannot fail to remind us of another very important one, the most important of any in history, and attended by consequences of great moment to all, and apparently disastrous to many. We, of course, refer to the reconciliation of Herod and Pilate.

†No *expedition* of emigrants to Liberia has ever sailed, that were not spoken of by the press, generally, previously to their embarkation, as rather a superior body of people, whilst those of them that remained, and appeared to have made up their minds to remain, were most unsparingly defamed.

good men are often connected with a bad institution. There are many whom we respect highly, who are engaged in supporting the monarchies of Europe. They think that a republic is another name for disorder. No one will deny that there are many good men, many excellent men, in the Catholic Church; yet reflective and impartial persons look on it as an institution used to support a great hierarchy, compounded of pride, credulity, superstition and imposition; and that the good are so, in *spite* of its adverse influence.

It will not be supposed that an association, such as we have described the Colonizationsociety to have been, ramified, too, as it was, throughout almost the whole country, would not produce a strong effect on the public mind. Some of them, we will now proceed to exhibit. To the intelligent and unbiassed reader, it will make but little difference, whether they originated after the organization of the society or not, inasmuch as the same state of feeling in the community, produced them both. Some of them may have existed *before* it was formed, but the boldest and most flagrant, *since*. In the former case, the society only strengthened and confirmed what had been previously done.

I. Slavery—or rather the discussion of it, produced *mobs*. These mobs—where they could effect their purpose, in this way—so interrupted free discussion, as to prevent the exercise of it. In many cases, they have beaten and maltreated him who disclosed any of the abuses of slavery, and insisted on his right: they have even gone so far as to put to death the victim of their passions.*

If the interruption and suppression of discussion had confined itself to mobs—for all countries are liable to these outbreaks, notwithstanding the laws for their punishmeut—the case would have been more tolerable. But it did not. It found its way into Congress, from whom calmness of deliberation, and observance of the Constitution, are expected. To secure both of them—especially, the latter—the members are sworn, or affirmed, to support the Constitution: yet, the House of Representatives made a rule, or passed a resolution, after hearing a concurrent report from a committee, the chairman of which was a slaveholder, that all petitions sent into them, should be laid, *unread*, on the table, and, of course, unacted on. This rule was made with the view of defeating the many petitions that had already been sent in for the abolition of slavery—being meant, of course, where Congress had the right and power to abolish it—and of meeting the many that were supposed *would* be sent in for the same purpose. It prevailed for several years, with various modifications, none of which made it less stringent or less obnoxious, at the end of which time, it was set aside, mainly by the efforts of the late John Quincy Adams, who, from the first, was a strenuous opposer of it as unconstitutional. Since it has been left out, but few petitons have been presented on the subject, and those few have been as effectually put to sleep by a vote of the majority, consigning them "to the table," as by the former measure. Some of the members, most active in pressing the rule, sought refuge under the

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* The Constitution has inhibited the free discussion of NO question, not even its own entire change. Indeed, when we consider the amendment intended to secure freedom of speech, and the provision the Constitution makes for its own change, we are of the impression that it rather invites discussion on the preliminary means of substituting better arrangements, or such as may be proved to be inferior. As its best condition, as its greatest security, it leaves the mind of man perfectly free, and never meant that any subject should be above examination.

We know it may be said, for it HAS been said, that the alleged compromise about delivering up fugitive slaves, cannot be so abrogated that Congress can act on the matter; that without it, the Southern States would not have entered the Union, and that now to abolish it, would be an instance of bad faith, and that it ought to be viewed as completely and forever unchangeable, as much so as the Judicial or Legislative or Executive departments. We well know, that when we are excited things may be said which will not bear the scrutiny of our calmer reason. Slavery, saying nothing of Christian principle, has been abolished in the most civilized countries in the world as too expensive to be maintained. Still their Sovereignty is not at all impaired by it, for it constitutes no part of the sovereignty of *any* State, any more than any other vice or form of oppression. But did we ever hear of a civilized government, without a legislative, executive, or judicial department? Not one. Again, it is said, we cannot abolish slavery as long as THE SOUTH is unwilling it should be. There is no provision of this kind anywhere. But, independently of one, is it true—consistent with principles which we act on as true? Now, supposing an attempt was made to abolish Southern slavery, and the minority—very small—but one State, all the others having set free their slaves. Does not this bare statement show the utter unreasonableness of the question, for it leaves the *majority* on a most important point, too, and the interests of the whole community, to be entirely controlled by a *minority*. The South was much opposed in the convention, to taxing "exports." We do not tax them, but who supposes it would be a case of bad faith in the government, and a suitable cause for dissolving the Union, if it were to be seen that the taxing of them, or laying a duty on them, would be for the good of the great majority, and injure no one.

provision of the Constitution, which says, "Congress shall *make no* LAW &c."—and Congress had, as *yet*, made no *law*—the House of Representatives, *alone*, had put down the right by one of its rules of proceeding, or by concurring with a committee in one of its own reported resolutions. But the absurdity of this was too great, to be much or long relied on.

The Senate have long used the plan adopted of late by the House of Representatives. This is attempted to be covered up under one of its own rules of proceeding, made, we suppose, to *facilitate* business, (?) and it has been found so effectual for excluding *all* anti-slavery petitions, disagreeable to that body, that one of its members, from a free State too, boasted, not long ago, that since the commencement of the anti-slavery "excitement" not *one* petition, intended to promote it, had been received or acted on by the Senate.

II. The existence of slavery has induced the legislatures of many of the slave States—led to it, doubtless, by the cause before stated—the dislike of the free colored men by the slaveholder—to pass acts declaring that they must leave the limits of the respective States in a given time, or that the penalties of these enactments would be enforced against them. Should they, through fear, remove, the penalties for their returning were so stringent and severe, that it was thought they would be kept away. In this the slave States have been followed by several of the free—particularly by Indiana, in the late constitution—so great a desire have they to convince the slaveholder of their determination to fulfill, to the utmost, all constitutional stipulations respecting slavery.*

III. Colored citizens of the United States, residents of the free States, and possessing all the privileges of them, when driven *accidentally*—for we suppose that none go *of purpose*—into the harbors of those States of the South that border on the Atlantic, or on the Gulf of Mexico, are put into jail, regardless of any charge of crime.* This inhuman law, intended chiefly to apply to colored mariners, includes the colored citizen not only of our own States, but of all foreign countries. On the arrival of a vessel from a free country, she is visited by a State officer, who takes all the colored persons he can find, ashore, where he confines them. There they are kept till the vessel is ready to sail, the cost of the whole proceeding being charged to the master.† The late Justice Johnson of the Supreme Court—a resident of South Carolina—pronounced the law altogether unconstitutional. England has complained of it, and now complains of it. However, it is still persisted in. It is thought to apply as well to our national vessels as to others, and indeed, we do not see why the alleged *reason* of the rule does not make it as fairly applicable to them as to others; nor are we, at all, prepared to admit, that there should be a general breach of the Constitution charged against our country, while its *government* should be made an exception. The facts of the case to which we particularly refer are—according to our recollection—as follows: A national vessel—the Georgia—had occasion, not long since, to enter the port of New Orleans, having a colored man on board. She was at once visited by a State officer, who was about taking him off to jail. The officer was remonstrated with by the commander on the ground, as we remember, that the vessel was *national*. The officer consulted the Attorney-General of the United States, for that district, who was of the opinion, that the law did not apply to *national* vessels. He also consulted the Attorney for the *State*, who thought differently—that it intended to include all vessels having colored men on board, and that as it had not, to any way, been declared unconstitutional,‡ it

*If our recollection dees not much mislead us, a Representative in Congress from Illinois—in order to show that *his* State had the same determination attributed to others—stated in his place, that a colored man *suspected* of being a slave, but whose owner, if he had any, was not known, was arrested and confined in jail till his owner should, in some way, be found out and informed of it. If this be so, and we know of nothing to contradict it, the situation of the colored man in Illinois is even more precarious than we had supposed, and the presumption that every one is free till the contrary is proved, cannot exist there.

*If civilized people were to be driven *in distress*, into a port that they had never heard of or seen before, and if all the seamen of a certain description were to be taken away from the vessel and confined at their own costs till the vessel was ready to sail again, and those left on the vessel watched, in the meantime, quite narrowly, it would be looked on as pretty conclusive evidence of a barbarous, if not of a savage nation, into whose hands they had fallen.

†This is, in part, a device to get rid of dealing with a colored man, as if he was free. It is well known that the amount is deducted from the seaman's wages. If the imprisoned party is not duly taken away he is sold into slavery for his jail fees.

‡A law being declared constitutional does not make it so. As well might the Louisiana attorney

was still valid and ought to be applied to them all. The matter, as well as we remember, was finally *compromised* by the vessel leaving the port as soon as she could get ready—the State thus maintaining its act against the Constitution of the United States.

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say, that all the laws passed against the free colored people in the several States—even the provision in the late Constitution of Indiana—keeping them out of the limits of her territory—are constitutional. They never have been declared otherwise, and probably never will. One may have various satisfactory reasons for submitting to what he knows is an unconstitutional enactment, rather than proving it to be one, before a competent court. He may think that he will never visit the State again, and, of course, never another time, be subject to its operation—or that he is too ignorant, or of too little note—too poor to undergo the expense. Suppose, by way of illustration, the colored man on board the Georgia, had made up his mind to try the constitutionality of the law, and had suffered himself to be led away to jail—intending to sue out a writ of *Habeas Corpus*, on which his whole case should be examined. He would almost certainly be unknown, a man of no figure in New Orleans. What lawyer there, would so endanger his reputation, as to undertake his case without a fee which the colored man would be wholly unable to give? Who then, would present or prepare his petition, or speak to it. But supposing all this done, the Judge replies that the Habeas Corpus was never intended to relieve those who were in custody of the law, and that a law had been passed by the Legislature of Louisiana, on which the petitioner was in custody. In support of his position, he might cite the opinion of Attorney General Crittenden. He refuses granting the writ, saying he would only have to remand the applicant on his own showing. Here, in our judgment, is an end of the case. But we will suppose that judgment is given against him, and that he intends to take it up, if he can, to the Supreme Court, by writ of error or appeal. Who is to prepare the papers for him? to be his surety in the bond, if only *one* should be required? Who will attend to his case in the Supreme Court? What lawyer practising there will be employ? What fee will this lawyer ask, &c., &c. The whole matter is not only unprecedented, but it will never be seen, and is utterly out of the question. To ask mariners or seamen—whose means are usually small—to do these things, is to ask of them impossibilities. We will mention here, as most properly belonging to this place, that even now, and for many years back, the colored citizens of Massachusetts, without any allegation of crime, were, on their arrival at Charleston or New Orleans, put into the jails of those cities, *according to law*. Such was the state of public feeling about slavery that no resident lawyer could be gotten to attend to their cause. For the purpose of giving them all necessary aid, according to the Constitution of the United States, Massachusetts deputed two of her trustworthy white citizens to visit these places respectively. The one that went to Charleston was met by a mob. The Legislature was in session and resolutions were passed of a most inflammatory character—resolutions adapted to excite, as they did excite, the mob to greater extremity. This deputy was escorted by the rabble from his lodgings in Charleston to the steamboat which was to convey him back to Massachusetts. The other deputy went to New Orleans, where, to be sure, the Legislature was not in session, but his bare arrival at that city caused such a popular ferment, that, for fear of being mobbed, he made his way back to Massachusetts as soon as he well could. Neither of them accomplished any thing in relation to his mission. Nothing more of a public nature was done about it.

IV. Within the last few years, several of the free States—among them Connecticut—have formed new Constitutions. It was supposed that in New England the opposition to slavery was as decided, at least, as any where else. There was another reason, too, which we would have supposed would have made Connecticut still stronger in her opposition. She was small, and considering her extent, had many churches and colleges—boasted of her great intelligence, and of being *really* the "*land of steady habits.*" Yet strange to say, in the very precincts of these institutions where it might be thought a good influence would be exerted, the opposition to slavery is feebler than in other parts of the State.* We can account for it but in one way: the commercial class in Connecticut have large business transactions with the South—the South influences the commercial class, and they the other affairs of the Connecticut community. The conventions for forming these constitutions are made up of the Representatives of the people. They have their power, their voice, to be modulated as they judge proper. They can regulate the elective franchise as they think best; and it is cause of thankfulness, that so far as the whites are concerned, these constitutions are made more and more democratic—but never in a single instance, unless Rhode Island be considered one, have they had the courage to say, that the colored people should vote as the whites do Having no heart in the matter, and desirous to shift all sorts of responsibility from themselves, they timidly referred it to their constituents. The result in every case was what might have been foreseen. No matter which political party—whig or democratic—had the ascendancy, the popular majority was not only decisive, but overwhelming against colored suffrage. We have not said unadvisedly, that the Conventions timidly referred this matter to their constituents. They had the full power to do right, and what every one, at all conversant with such subjects, knew to be right; and we have always observed, that when *leading men* do right—when they suppose that in so doing, they assume a good deal of responsibil-

*We have with a great deal of uniformity found, that the most independent thinkers—the most self-relying men, are the most opposed to slavery. The ignorant and immoral—where they think about emancipation at all, are opposed to it.

ity, the great body of the people are ready to follow them—they are pleased that it is done already by those in whom they confide. We have said, too, that the issue might have been foreseen, for when the Conventions declined exercising the power conferred on them, the very act of declining, was tantamount to advising the people not to allow it. Beside all this, it gave ample time for party machinery to be brought into play, and to have its full effect.

We meant to say nothing, further than to mention them, of the riding of the colored people with the whites in the same coach, in the same steamboat—of their exclusion from the militia, from serving on juries—of the negro pew, &c., &c. Sometimes straws show better than heavier substances which way the wind blows—as these do the direction of public sentiment.*

We have been rummaging our historical recollections, to find out if there ever has been a case—especially in modern times, when we think we know all about Christianity—parallel to the one before us. So far as we know, there was but one—the EXPULSION of the Jews from Spain, then governed by Ferdinand and Isabella; and *that* has been condemned for its unchristian atrocity by all people in any good degree refined. Its *object* was the EXPULSION of the Jews, but we would not say this was the object of the Fugitive act, as regards the colored people. Its effects, however, rather have been to persuade them to leave the country—chiefly to migrate to Canada.

The same year [1492] that was made illustrious by the discovery of the New World, was also signalized by the expulsion of the Jews. The act was so irreligious—so inhuman—that even Prescott—with whom Isabella was a great favorite, and from whose history these incidents are gathered—does not attempt to justify it. The sufferings the Jews underwent—and they were fomented by the Clergy—were very great; indeed, enough to appal any but the stoutest heart. Some of them had become rich. Their wealth had brought about alliances, in the way of marriage with noble families, who, in acts of extravagance, had pretty well exhausted their own means. The sudden exposure to sale of so much property as the Jews possessed, brought the price of it down to almost nothing. That we may not be supposed to deal in exaggeration, "a chronicler of the day," Prescott tells us, "mentions that he had seen a house exchanged for an ass, and a vineyard for a suit of clothes." In the midst of their distress the Rabbis, or leading men, exhorted them to persevere—comparing their present afflictions to those that had been suffered by their fathers—to be crowned with a like happy result. The more wealthy among them enforced their exhortations by liberal contributions for the relief of their indigent brethren. When the period of their departure arrived, the principal routes were filled with them. The old and the young, the sick and the helpless, men, women, and children—some on horses or mules, but far the greater part on foot—were to be seen undertaking the tyrannous emigration from the land of their ancestors, a land, too, in which *they* had been born. Every precaution has been taken by them against suffering; but in spite of this—for they had only from the 30th of March to the end of the next July to prepare—their afflictions were so great, that the sight of so much misery touched even the Spaniards with pity. But none would succor or relieve them, for Torquemada, the Grand Inquisitor, had denounced all relief to them by heavy ecclesiastical censures.

A considerable number found their way into the parts of Santa Maria and Cadiz, where, after lingering some time, they embarked on board of a Spanish fleet for the Barbary coast. Having landed, they were assaulted on their route by the roving tribes of the desert, in quest of plunder. Notwithstanding the interdict, the Jews had contrived to secrete small sums of money, sewed up in their garments or the linings of their saddles. The spoilers even ripped open the bodies of their victims in search of gold, which they were supposed to have

*Some who have not had the opportunity of seeing the *practical* working of this thing, or, perhaps, do not give it as much thought as they do other things, are inclined to think there is less prejudice against the colored people at the South than at the North. This they generally ascribe to the greater number of colored people at the South, and the more frequent mingling of the whites with them. But, on closer examination, this will be found incorrect. At the North the seat in the public coach is taken by the colored man, paid for out of his own money, and he feels that he has as much right to it as others have to theirs. At the South, it is true, the free colored man takes and pays for the seat. To ride together with white people is, in both cases, considered as a *favor*. The violent feelings of the Southerner would be more fully shown, if the seat were demanded as a *right*.

swallowed. The lawless barbarians, mingling lust with avarice, abandoned themselves to still more frightful excesses, violating the wives and daughters of the unresisting Jews, or massacreing in cold blood such as offered resistance. They were driven even to such extremity of famine, that they were glad to force nourishment from the grass which grew scantily among the sands of the desert, until, at length, great numbers of them, wasted by disease, and broken in spirit, retraced their steps to Ercilla, a Christian settlement, and consented to be baptised in the hope of being permitted to revisit their native land.

Many of the emigrants took the direction of Italy. Those who landed at Naples brought with them an infectious disorder, contracted by long confinement in small, crowded, and ill-provisioned vessels. The disorder was so malignant, and spread with such frightful celerity, as to sweep off more than twenty thousand inhabitants of the city, whence it extended its ravages over the whole Italian Peninsula.

Others of them went to Genoa. Some of them were massacred by the captains of the vessels for their effects. Some had to sell their children for the expenses of the passage. They arrived in Genoa in crowds, but were not suffered to tarry there long, by reason of the ancient law, which interdicted the Jewish traveler from a longer residence than three days. They were allowed, however, to refit the vessels, and recruit themselves for some days from the fatigues of the voyage. One might have taken them for specters, so emaciated were they, so cadaverous in their aspect, and with eyes so sunken; they differed in nothing from the dead, except in the power of motion, which indeed they scarcely retained. Many fainted and expired on the mole, which being completely surrounded by the sea, was the only quarter vouchsafed to the wretched emigrants. The infection, bred by such a swarm of dead and dying persons, was not at once perceived; but when the winter broke up, ulcers began to make their appearance, and the malady, which lurked for a long time in the city, broke out into the plague the following year. Prescott supposes—as we think, correctly—that the number of exiles was about one hundred and sixty thousand, though it has been computed as high as eight hundred thousand. Three years afterward, the Jews were prohibited from going to the New World.

The consequences were disastrious in every way:—for the sufferers of a wrong, whether they suffer much or little, or, even if the matter end, so far as we can see, in something good for them, is of small account—none indeed—in considering the effect of the wrong on those who *perpetrate* it. *They* must always suffer, it being a part of our natures, and unavoidable.

Judging from the following extract from a Detroit newspaper, as also from the one from a Montreal paper, the resemblance of the case in hand to the one cited, is closer than we had at first supposed. The one from Detroit, of October 18, 1850, says, "Much excitement exists in this city in reference to the Fugitive slave Bill. Every steamer, propeller and vessel, from the ports in Ohio to this place, has a large number of fugitive slaves, that have resided for some time in various parts of Ohio, on their way to Canada.* Some bring their families with them. Fear of the slave catcher, and of a return to bondage at the South, nearly distracts them; consequently, they are flocking to free Canada for protection. The cars from the West also bring a great number to the city, and they go over the ferry to Canada in double quick time. The numbers now gathering in the villages of Malden, Sandwich and Windsor, is now estimated at near two thousand. The commandants of the British garrisons at Sandwich and Malden, have given up the barracks to lodge them in. The barns and vacant houses all up and down the river are full of them. *Some are suffering for food.* The Canadians are very hospitable to them, and much has been done for them in this city [Detroit]. The lower ports on lake Ontario are represented as being full of them. The Canadian back settlements have more than they can feed."

The other extract is from Montreal, October 31, 1850. It says: "A number of fugitives arrived here and at Toronto yesterday. It is estimated that nearly one

*It must appear to many an odd turn of things, that people should *escape* from this country to Canada, a Province of the British Empire, to secure their liberty, when we formerly went to war with that empire, because we had not liberty enough. But times are much changed, and slavery produces strange anomalies.

housand have reached Canada since the commencement of the agitation, many of whom have passed into the interior, where they intend abiding. There appears to be less sympathy shown for them than formerly, and many seem actually in want of the *necessaries of life.**

This paper, which was written chiefly with the view of benefiting the free colored people, is now drawing to a close. The writer wishes to address his remaining remarks particularly to them.

MY FRIENDS:—According to my ability, and with entire candor, I have endeavored to make plain to you your condition, as a class, at the *Revolution*—at the *making of the Constitution* in '87; how the formers of it felt towards you, and how they impressed on that instrument, their feelings—your condition *since*, in the main, getting worse;—the *situation of the country*;—all leading to, and ending in, the present consummation of your uncertainty and distress—the decision of the Supreme Court, at its last term in the case I have presented to my readers in the second chapter.

It is evident to me, and, I think it must be so to you, too, that the decision, as far as it goes, not only overthrows the Constitution, but greatly disparages it; for the Constitution was not made to favor slavery, as under its influence it was supposed it would go out, but to establish and confirm and extend liberty. However: after all that may be said in favor of temporizing with an acknowledged evil, it shows the ill effects of it, or of passing it by in forming a government without routing it *entirely* from it.

The territory that composed the Union in '87, it was thought, would be free from the curse of slavery before very long. Other lands on which Americans settled, or which they might acquire, were to be sacred to freedom—they were to demonstrate the sincerity of the country in the professions it had made, through our fathers, to the world. Knowing how much the people love even the name of their Constitution, the doctrine of the decision has been trumped up and called *Constitutional*. Far be it from me to attribute this to ignorance, for I have too high an opinion of the court to suppose so. But their prejudice—pliancy—subserviency—has blinded them. Having no great and universal principles by which to test their decissions, they imitate the chamelion, generally supposed to take its color from surrounding objects. They saw the highest influences in the Church and in the State—the local legislatures, in Congress, in the Administration, *all*, indeed, with only rare exceptions, entertain but one and the same opinion. Desirous of avoiding singularity, they followed their inclinations, leading them, in all likelihood, to suppose that these influences, so many from such good men, could not be wrong: therefore we look on it as not at all improbable, nay, almost certain, that they *think themselves right*. Hence, their very sincerity in wrong, makes them more determined against truth and justice, whilst their ignorance, and defiance of instruction, except from their own books makes the case almost, if not utterly, hopeless. The decision, however, ought not to be regarded as deficient in forecast and deliberation: but as shewing the great solicitude of the court to conform to, what they *believed*, was public sentiment. You have, then, lived among us long enough, and truely, it is long enough, to see us disregard the Constitution,* when it was

* The Colonial Secretary in England, Lord Grey, in August, 1850, saying that under certain circumstances the emigration of the black and colored population of this country, to the British West Indies, might be had, closes his letter thus,—"Before taking those steps, however, it would be necessary to ascertain, officially, that there would be no objection on the part of the United States Government, as it must of course be understood that otherwise her Majesty's Government could not countenance any attempt of the kind proposed." That is, the *Government* of England will not attempt this thing, without the full concurrence of *this* Government.

This government having passed an act of great injustice to the free colored population: the effect of which has been to drive many of them to Canada. She has gone as far as she can according to the forms of the constitution, or with any regard to them, substantially to drive them out. This government, it is true, cannot prevent their crossing the line into Canada, but by a successful negotiation with England, she may persuade her not to let the colored people enter Canada.

It would hardly be supposed that any hindrance would be interposed by this country to the departure of the free colored people from it. But we have a New York journal, the Spectator, that would not only carry the persecution of them into other lands, by reiterating with some praise and exultation, Lord Grey's sentiment, but in finding fault with the formation of an anti-slavery society at Toronto—a society which supports the policy of its own government respecting slavery, and gives the colored people the aid and comfort which they could not get at home.

*The newspapers inform us, that the highest judicial authority of Oregon has decided that the free people of color can be kept out of it, and expelled from it, by an act of the Legislature. In the case alluded to, the defendant, a colored man, was allowed thirty days to go out of it.

The prevailing opinion is, that Congress has control

in the way to an injurious scheme, one that we had much at heart, and by which you were to be removed from among us.

Be this as it may, you will soon have to make an election—an inevitable one, too,—depending on the open deeds of your class, rather than on their more secret thoughts. The election to which I refer is contained in this question, which each of you may ask himself—"*shall I, if I am able, emigrate from this country?*" If you have made up your minds *not* to emigrate, there will be no use in your determining to what country you should go. I am not unaware of the noble resolution passed in your meetings some years ago—that you would remain here, and abide the destiny of your colored friends in slavery. Neither am I unaware, that when this resolution was made known, your presence and good conduct among us were thought might be made serviceable in gaining liberty for the enslaved. But that day is passed by—that expectation—apparently so well founded—is vain. The state of case that rendered your resolution magnanimous has changed. Your presence here, now, can be of no service to your enslaved brethren. By remaining, you only destroy yourselves. Your submitting, suffering, ultimately dying here can effect nothing on the hearts and determination of your oppressors and the oppressors of your brethren. The nobleness of your conduct may extract the remark that "*such a fellow ought to have gone to Liberia—he would have been a great acquisition there.*" But no more influence on those who could serve him than the last gasp of a worn out German would, on the petty despots of his oppressed countrymen, or, of an Irishman, on the tyrannous rulers of his brethren. We think more highly of them, *coming over to this country*, than of their wilting, and at length sinking down ingloriously at home:—especially do we, if, by their self-restraint they *save* something, and send to their friends to get *them* away too. A plan is prepared by your enemies,—it is this, *they are determined to get you away that they may maintain slavery* more undisturbed.* As parts of this plan, they are resolved—(and when did they fail in any project to support slavery)—to extend it—to bring more persons to be interested and implicated in it, and thus to make all the mighty power of the government subservient to its existence and confirmation.

Superiority on the part of the whites will always be vaunted over you—*as a class, inferiority* will always be acknowledged by you. There are *individuals* who will be exceptions, but they will be rare, and *exceptions* only. But the frame of mind that these tempers are well qualified to beget, will, as a general thing, and in the long run, become habitual. To this, I know of no exception. We are told that *white* Americans, with all their high democratic notions, become the most listless and degraded beings, when reduced to slavery—as they formerly were by the corsairs of the Mediterranean. It would seem, indeed—as if to show how odious a thing slavery is—that, just in proportion as the feelings and honor of men are elevated in freedom, they become low and abject in slavery.

As long as there was any well-founded hope that the principles of our government would prevail, and that they would in the end exterminate slavery, I wished you to remain here. While I feel still convinced that—should we advance in population and wealth as we have done for the last fifty years—slavery will finally disappear, as it now has in almost all European countries, its abolition will not be brought about by the *principles* of the government, but by the causes mentioned and others united with them. Slavery is a most expensive thing, in a dense state of population. When this is the case, freeman will perform, and perform better than slaves, the offices to which the latter are often called. Should it ever be submitted to me, for instance, whether a friend should go to purgatory—from which, it is said he *may* be gotten out—or to hell, from which they say no one can get out—I should have no hesitation in advising him to try the former.

over the legislation of a Territory, and that it may annul any law passed by it. But it is to be apprehended this will not be; for some years ago, when a member of the H. of R. moved to take up for consideration an act of the Territory of Florida, by which the free colored man, merely for visiting that country, or remaining in it, might be reduced to slavery, it was voted down. It still remains a disgrace to our Statute book, and a denial of our professions as a people.

*Some one in the House of Representatives in Congress—Mr. Pickens, from South Carolina, I believe—in a speech in favor of Slavery, remarked, that it *must be free from constant molestotion, or it was not worth maintaining at all.*

Or, had I lived in the time of Troy, and had she been able to beat off and defeat the invading Greeks, it is very certain, that I would not have advised Æneas and his few friends, to seek a new country, through all their perils; but as Troy was burned down, her defenders slain, but few of the inhabitants left, Æneas broken up in his private affairs by death, and loss, and utter discomfiture, the best thing that he and his faithful followers could do, was, to seek a new country, where, undisturbed, and under more favorabte auspices, they could re-establish the government and laws which they preferred.

But let us suppose that you have answered the first question in the affirmative, and that you have fully made up your minds to remove. The next that naturally arises is, *'to what country shall I go?'* There are three countries, Canada, the British West Indies, and Liberia, to which you can go, and to the last two you may be said to be *invited*.

Canada, at best, is a cold and wintry country, with a climate farther north and colder than those in which most of you have been brought up. The most desirable part of it, too, the southern, is already occupied by the whites, and the lands are at a higher price than you could afford to pay. Almost of necessity, you will be pushed into the bleak and hyperborean regions of it. Besides, a spirit of contempt and hostility against the colored man, akin to our own, prevails much in Canada. They have their Provincial legislature in which white men, mostly of the Anglo-Saxon race, bear sway. While I would say, go anywhere to get rid of this country, go not there, if you can help it. If you do, you go as an *inferior class*, and many of the ills you suffer here, you will continue to suffer there. Nor do we know—and such a thing is not to my mind more improbable, than was, two or three years ago, the passing of the Fugitive Slave Act in Congress—that a negotiation may not be successfully made by this country with Great Britain, in which may be contained a provision for your being delivered up to this government, or to its proxy, the slave-catcher. Remember, too, that you are to assist in building up the the nation into which you go, and of which you and your descendants are to constitute a part. On that account if you do not think you owe it to yourselves, you certainly do to them, not to emigrate to any land where you will, *by caste*, be an inferior portion of it, and always remain such. And it may be, too—and if I read the signs of the times right, it will be—that before very long Canada will be separated from Great Britain, and constitute, in all likelihood, a part of this government.

Many of our remarks about Canada will also apply to the British West Indies. They too, have their Provincial legislatures, though they are not so inaccessible to the colored man as the one in Canada. But the whites there, once were slaveholders, and when compelled to relinquish slavery, they did not relinquish the unjust and domineering spirit of the master. This spirit is seen in their multifarious oppressions of the emancipated people *under color of law*. They seem to be mad at being forced to give up their dominion over the slaves, and, in this cowardly way, to take their revenge, as far as they can. The climate is sultry, warm, tropical—warmer, indeed, than many of you have been accustomed to. But it is one of the kind providences of God, that our physical constitutions become more and more adapted to the climate in which we live —especially if it be a warm one. [See Appendix.]

But I have said, you were *invited* there. 'Tis true, it may be so said. But why? To *labor* for them. That you may assist them in making more sugar than they now have, and in giving new value to old and neglected estates. It is very true that all the honors that can be bestowed there are accessible to the colored man, and that public opinion against him is not so prevalent as it is in Canada. In this respect they may be superior to Canada —but you are *invited*, because they expect you will be inferior, *as a class*. If you were not to be laborers *for the planters*, you would occasion disappointment. So you would, too, should you emigrate to those islands solely for the sake of bettering your own condition, or of setting up for yourselves. The British West Indies will gain but little distinction till the majority rule there, and till they of that majority show themselves, also, friends of popular rights, and qualified in every way to bear office and transact business.

There is another reason which ought not to be omitted, and which would, probably, have some influence in dissua-

ding you from settling down in the British West Indies. Like other old slave holding colonies, they are much in debt and the taxes are high. Taxes, to be sure, are paid, as we all know, by different interests; but every where, and under all governments, they are paid by *labor*, in some form. I know of no exemption that you could claim, were you to fix your residence there.

Of Liberia, I intend to say but little. She is now, and she has been for the last four years, politically detached from this government. She is entirely free and her national independence has been recognized by France and Great Britain. What is true of it, has been as well said as I could say it—perhaps, much better. It would be strange, indeed, if its warm advocates had not, in commending it, gone a good deal beyond the truth. That Liberia is no *elysium* is very clear to my mind. Should you conclude to emigrate to it, I would not have you to imagine that you are going to any such place. In saying this, I intend no disparagement of Liberia. below other *new* countries, but they all testify to the truth of the remark. In going there you are going to a land—rich and fertile I believe it to be—in which much *work*—particularly of the rough kind—is to be done, before the conveniences and advantages you leave behind, can be had; where *labor* of the right kind is scarce and hard to be obtained; where society is rude and uncouth, and where, after struggling with difficulties for a life-time, you will die, leaving things, it is to be hoped, better than you found them. There may be some exceptions, but I speak not of them, but of the general social condition.

Lastly, having seen the miseries and evils of slavery, here, in every way, it is to be supposed that you will exercise restraint enough, not only *not* to engage in it yourselves, but to discountenance any approach to it in others. This should be done, on the first and least attempt that way—for although the secondary law, and even *constitutions*, may forbid slavery—as is the case in some of our free States—yet slavery may, substantially, be *practiced;* and you here see "what a great matter a little fire kindleth." And yet I must say,—considering who are at the head of the Colonization cause in this country, many of them being themselves slaveholders, or the friends of slavery here,—it would not much surprise me, if you were to become somewhat implicated in it; especially too, when I remember, that some of our early settlers fled from their own country to avoid persecution, and became a good deal remarkable as persecutors here. But be assured, if you tolerate slavery among you, the foundation will be laid of much trouble; of a superstructure that will be weak and unstable, and that will not stand a heavy blow. But putting aside all this—notwithstanding reports, which I must say are not favorable, have been set on foot, but which, although they have been re-iterated, I trust, have been amply disproved from the most reliable sources—what recommends Liberia to me for you, and what ought to recommend it to you, is, that the germs of civilization are there, and the white man does not rule.*

It would not much surprise me, if the counsel I have thought it well to offer were, *at first* rejected by you all. Indeed, it would more surprise me, if it were not—although you must see that it is offered for *your* good—that it springs from the oppressive principle that gave birth to the Colonization Society, and from the wrongs inflicted on you by the whites—wrongs that you are unable to resist. I am fully prepared, too, for *permanent* opposition on the part of two classes of the colored people. 1. Those who have made money, however small in amount, it must be when compared with the whites, and wish to enjoy it here, content that they and their families suffer all the impositions they now suffer, impositions that, if the belief I entertain is true, will be aggravated in future. 2. Those who have not more energy or force of character than will suffice them to run their chance of getting enough in this country to eat and wear.

To these two classes—knowing it would be useless—I have nothing to say. But to the more noble-minded—to those who wish to get from under the pressure of irresistible, unjust power—to those who wish to give full sweep to the faculties which God has given to all his children—to those who wish to make MEN

*For more particular information, see a pamphlet (published in 1850), by I. W. Lugenbeel, formerly Colonial physician, and United States agent in Liberia. Whilst we see no reason for distrusting the facts as related, we do not agree with him in some of his inferences.

of themselves—to those, the sooner the idea is proposed the better.*

I have said that, *at first*, my counsel will be rejected by all of you. There may, however, be a few who will not reject it—such as have had rather a dim or obscure view of the plan proposed, and who would not even mention what they knew for fear of incurring an odium which they could not meet, or of separating from a class of which they still wished to form a part.

With these exceptions, and only as exceptions ought they to be considered, the colored people have fallen into the nation—a nation in which, perhaps, they have been trained—that it is a point of honor for them to remain in this country as long as their colored brethren are enslaved, and that it will gratify their enemies—the Colonizationists—should they go to Liberia. Admitting that the Colonizationists are all they are supposed to be—a thing I feel no inclination to controvert—it is an unworthy motive, and it will be as sure to injure *you*, as any other unworthy motive is sure to injure him, who entertains it. It matters not how small the thing may be, or whether he against whom the wrong may be done knows of it or not.

But ought the whole matter of your emigration to be thought of thus? It is too important to be committed to the direction of feeling and passion. It ought to be submitted to our best judgment—to our most deliberate reason—the highest faculty of our nature, and therefore well adapted for deciding such questions. A fair appeal to this power will enable you to determine, whether, on the whole, you should leave this country, and what other you should seek.

But you will no doubt say, that this counsel coming from an old and reputed friend will precipitate on you evils which you are unprepared for, and which otherwise you would not suffer. I would be very far from aiding, in any way, in bringing about such a state of things, nor do I think that what I have said will do so. But it must be remembered that the "oppressor" here has "*power*," and that he has all the effective and official departments of the government on his side; that the whites have already explained away and overlooked the provisions of their Constitution; that they have forgotton and disregarded the humanity we owe all our fellow-beings, and that they will proceed as far as they may think *necessary to accomplish their purpose*—no matter what may be the extremity.

But some of you, in your dejection and in your oppugnation to injustice, may say *we can suffer it*. That may be. I will not dispute it. But to be cast down, discouraged, becomes no one whose constant aim is to do right, least of all, him who aspires to lead others by perilous paths to safe places.

Whilst it must be almost needless to say to you that the counsel I have offered is only the expression of my opinion; that it can be disproved of if unsound, and that if unsound, it has no binding force on any one; I trust it is equally needless to say, that its fair and candid consideration will be very gratifying, and that this gratification will be much increased, if it should lead to happy results.

*Governor Roberts, of Liberia, in a late letter to some one in this country inviting the people of it to emigrate, says, however it may be protracted, it will come to this at last.

APPENDIX.

It is a belief almost universally entertained, both by the friends of the black and colored people, and by those who are not so considered, that they are better fitted *constitutionally* to be exposed in a Southern climate than the whites. But I apprehend this opinion when it comes to be more closely examined will be much modified, if not entirely given up. It is supposed, that our Creator gave to MAN a physical constitution of such pliability as to fit him for *any* climate. It is not intended to deny, that particular classes of people and their ancestors, from having long resided in the same climate, acquire, in a good degree, a physical or constitutional fitness for it. The black people, as far as we can trace them back, were originally the inhabitants of warm climates, and no doubt is entertained, that their physical constitutions are much affected by that fact. But take any large number of blacks—say fifty or more, and the same number of whites—they and their ancestors being brought up nearly, or quite alike, and in the same climate—and they will, under the same circumstances stand any change of latitude, however great, pretty much alike. That the descendants of the Liberians will, in two or three generations, become acclimated, we have no doubt.

CORRECTIONS.

PAGE.	COLUMN.	LINE FROM TOP.	
8	2	11	for *called* read *call.*
12	2	32	for *person* read *persons.*
12	1	41	for *it* read *its.*
13	2	31	for *io* read *in.*
17	1	36	supply *that* between *declare* and *one.*
19	1	19	for *steal* read *steal.*
20	2	13	for *possessed* read *professed.*
22	1	5	for *they* read *they.*
24	1	18	for 1789 read 1787.
26	1	14	for *agreements* read *engagements.*
28	2		In a Note read *earnestness* for *correctness.*
30	1	35	for *acts* read *act.*
30	1	49	for *adopt* read *adapt.*
30	1	49	supply *a* before *formal.*
37	1		In the 6th line of the Note read *as* for *on.*

If other errors are discovered by the reader, it is thought they are not of sufficient consequence to lead him into any mistake of the writer's meaning.